Table of Contents

Africa AMANI
Journal

A Journal of the International Peace Support Training Centre. Dedicated to Peace in Africa

Contributors

Col Donatien Nduwimana is a senior army officer of the Burundi National Defense Forces (FDN). He is currently a researcher at the International Peace Support Training Centre (IPSTC).

His career as a military officer began when he was commissioned into Burundian National Defense forces in 1988. He completed military and academic training in 1994. Since then, he has held key positions in staff and command some of which include those of Battalion Commander between 2007 and 2010 and Ministry of Defense advisor in studies and strategic planning in 2012.

He has attended several career military courses during his time of service including senior staff course in Libreville, Gabon, Multinational Battalion Commander in peace operations in Bamako, Mali and the International War course in Yaoundé, Cameroon.

He holds a Master's Degree in Arts in Political Science option International Communication and Journalism from Madison International Institute and Business School, a Master Degree in Strategy, Defense, Security, Conflict and Disaster Management from the University of Yaoundé in Cameroon, and a Bachelor degree in Economics Sciences (Management and Administration) from the University of Burundi.

Samuel A. Nyanchoga is a professor of history and peace studies and current dean of the faculty of arts and social sciences at the Catholic University of Eastern Africa. He has also served as director of the Institute for Regional Integration and Development at the same university. He is also a recipient of many local and international research awards. He has consulted for organizations such as International Labour Organization, Institute of Social Studies, Kenya Parliamentary Women Association, National Cohesion and Integration Commission, The Commission for University Education, Kenya Human Rights Commission, and AMISOM. He is also an external examiner for Kenyatta University, Mount Kenya University, University of Nairobi and Masinde Muliro University.

Mumo Nzau is a Fulbright Scholar who holds an MA and PhD in Political Science from the State University of New York at Buffalo. He also holds an MA Degree in International Relations from USIU; in addition to other graduate-level training in the field of Peace and Conflict Studies from MMUST. He is a lecturer at the Institute of Diplomacy and International Studies at the University of Nairobi; and he has been a Senior Lecturer of Political Science at the Catholic University of Eastern Africa (CUEA) and Adjunct Faculty at the United States International University (USIU, Africa); as well as the

Department of Political Science and Public Administration-University of Nairobi. Dr. Nzau has is a key resource person in the Foreign Affairs, Internal Security and Defence dockets in Kenya. His Consultancy and Research specialties include National Security and Defence Strategy, Conflict Resolution and Management, Governance and Development- areas of specialization on which he has numerous peer-reviewed published works in the form of Books, Book Chapters and Journal Articles. Dr. Mumo Nzau is the author of: *Transitional Justice and After: Kenya's Experience with IDP Resettlement and Peacebuilding since the 2007/08 Post-Elections Violence* (Nairobi: CUEA Press, 2016). Dr. Mumo Nzau Personal Webpage: www.mumonzau.net

Seif Mohammed holds a PhD in International Studies from the University of Nairobi. His research interests are mainly in the areas of international peace and conflict in addition to the various facets closely associated with this domain- the dynamics of national, regional and international peace, security and governance. Dr. Seif is particularly interested in researching on these issues with a special bias on the Eastern Africa Region.

Mr. Mbugua is an accomplished peace and security researcher, facilitator, writer and editor. He is currently working as a researcher at the International Peace Support Training Center (IPSTC) where he has published a number of occasional papers and issue briefs. Mr. Mbugua has a wealth of experience in peace and security research, training and facilitation of peace building, security, peace support operations and is also a writer and editor in the media and publishing industry.

Mr. Mbugua has also been a guest lecturer in Kenyan Universities and Zambia. The author has done consultancy work on peace and security issues for a number of organizations including UNDP and UN Women. Mr. Mbugua holds a Master's degree in peace and justice from the University of San Diego, California, and is also a recipient of the prestigious Fulbright and Rotary Ambassadorial Scholarships from the United States.

Prof. Timothy Henry Gatara is a social scientist specialized in research and Demography. He graduated from the University of Nairobi with a B.A (Hons) in Sociology and a Master's degree in Development Sociology. He went on to take a position as Research Officer with the Food and Agriculture Organization (FAO) of the United Nations. He served the Flying Doctors and the African Medical and Research Foundation (AMREF) as a Senior Field Officer. He studied Population Dynamics at the Johns Hopkins University at Baltimore, USA, and proceeded to the Centre for the Study of Population at the Florida State University, Tallahassee, where he obtained a PhD in Sociology, majoring in Demography. He taught Population Dynamics and advanced Demographic Techniques at the Population Studies and Research Institute (PSRI) at the University of Nairobi for 7 years. He joined the International Planned Parenthood Federation (IPPF), Africa Region, where he served for 15 years in various senior capacities in the region and internationally, focusing mainly on programme development, institutional dynamics, strategic planning and management of donor funds. He has had extensive consulting experience with international, governmental and private organizations throughout the world. Prof Gatara is the author of 3 books: *Research*

Methodology; The Poverty of Mind and *Statistical Techniques.* This is in addition to numerous articles and research and consulting reports. His latest work is on development of models to predict state Fragility in Africa.

On leaving IPPF, he joined the Nairobi Evangelical Graduate School of Theology (NEGST) (now Africa International University), as Director of the Institute of African Realities (ISAR). He served as Deputy Vice-Chancellor for Administration and Finance, the Presbyterian University of East Africa. He now serves as Professor and Senior Research Scientist at the International Peace Support Training Centre (IPSTC).

Grace Atim is a Senior Research Fellow at the Institute for Peace and Conflict Resolution, Abuja, Nigeria. She holds a B.A. (Hons) in English Language, M.A Mass communication, MSc Gender Studies, and Post-Graduate Diploma in Development Administration (PGDA). Her research interests are in the areas of Development, Human Rights, Security, Conflict, Gender and Communication.

Philip Emase is an M.A student in Peace Studies and International Relations at the Catholic University of Eastern Africa's Hekima Institute of Peace Studies and International Relations (HIPSIR). Philip has nine years' experience as a communications officer, journalist and editor in Kenya, Ghana and Sudan. Currently, he is Inter-peace's Communications Officer for Eastern and Central Africa. Philip has previously worked as Information and Communications Officer at the African Security Sector Network (ASSN) in Accra, Ghana; the Aga Khan Foundation's Regional Communications Officer for East Africa; and as Project and Communications Coordinator for Koinonia Nuba, a development NGO in the Nuba Mountains region of Sudan. A Kenyan national, Philip has also been Associate Editor of News from Africa and has corresponded for various international news publications.
.

Editorial

Terrorism and violent extremism are well documented phenomena of our times. Although terrorism dates far back in history, it is only in the second half of the last and first half of the current century that its graphic and devastating nature to human progress has become more manifest. In the decade following independence in Africa, early warnings about terrorism in the years to come were already there. A few examples include the terror of 'Carlos the Jackal' and his collaborators in Europe, Middle East and Africa; the Red Army and its violent projection of terror on humans and states; the struggles in Palestine and the massacre of Israeli sportsmen in the Munich Olympics of 1972; the numerous hijackings of civilian aircraft and massive loss of lives. These incidents only got worse. They were precursors of 9/11 in the US and the bombings in Nairobi and Dar es Salaam. They are related to the current terror and violent extremism in our times.

Have the likely causes of this state of affairs changed over time? The answer is probably not. The group grievances and ideologies behind the terror have only aggravated their impacts on society. It is more apparent now than ever before that terror is an intellectual movement with ideas and thoughts by committed thinkers and practitioners. As such, the struggle against it must start here. It is no longer a question of what lethal weapon one possesses or how it is utilized. It is time for an intellectual and ideological rearmament to deal with a new kind of war. In the current issue *of Africa Amani Journal*, the concepts *state fragility* and *terrorism* are discussed within the context of Africa. Violence emanating from electoral processes in Africa is also addressed in light of happenings in various spots on the continent such as the DRC and Gabon. Gender is also revisited within the confines of terrorism and the increasing participation of both men and women in terror. The editor welcomes the current issue of *AAJ* and looks forward to wide readership and future contributions.

Prof. Timothy Gatara
Editor

Foreword

Understanding Terrorism

The latest statistics on terrorism in the world are telling. The top terror nation on earth is Iraq, sharing the spot with Afghanistan, Pakistan, Syria, India, Yemen and Thailand. Africa, however, appears on this notorious list of top 10 terror nations on earth due to the experiences of Nigeria, Somalia and Libya. This is according to the Global Terrorism Index (2015). The Central African Republic ranks 14th, Sudan 16th, and the DRC, 19th. Terrorism is least in Ghana, Angola and Sierra Leone.

Given the above figures and serious challenges posed by terrorism and violent extremism in the region, the IPSTC is ever aware of its mandate, to conduct timely research on issues of peace and conflict and to share the findings with policy makers in addition to developing relevant courses to address the peace and security issues of our time.

Time has shown that terrorism is highly mutational and persistent. It has reached a stage that leaves little doubt in the thinking of peacemakers and governments that it is a highly intellectual phenomenon and that it is time to start dealing with it at that level too. It has a philosophy, a mind-set and an ideology.

In the current issue of the *Africa Amani Journal*, there are articles that push the understanding of terrorism as an intellectual pursuit. The concepts 's*tate fragility' and 'terrorism'* are examined. So is the whole issue of *electoral violence* that pervades most African states and sometimes exceeds simple acts of terrorism. Finally, *counterterrorism* and the challenge of *gender* in terrorism are also examined. I take this opportunity to thank all our partners and to welcome all to this 4th issue that focuses on terrorism.

Brig. Patrick Nderitu
Director.

Electoral Conflict and the Responsibility to Protect (R2P)

Lt Col Nduwimana Donatien

Abstract

This article on Elections and Responsibility to protect (R2P) examines the causes of widespread use of political violence by political actors to advance their interests or achieve specific political goals in relation to electoral contexts. Electoral violence create humanitarian crisis , increase the risk of armed conflict or civil war and raise therefore the necessity of international humnaitarian intervention(Resposibility to Protect). Although the Responsibility to Protect (R2P) was unanimously adopted at the UN World Summit (1999), it is currently paralyzed in practice. Current crisis in Burundi and South Sudan, where Civilians are paying a high price are good occasions if the international community wants to revive the R2P as a tool to protect civilians. Conscient of the growing awareness of people's political rights and the politician's greed of power; two opposing factors that lead to conflict, the United Nations and Africa Union may have to demonstrate more willingness to address the gap between its decisions, the rhetoric of compliance, and the reality of responses on the ground.

Introduction

Electoral violence is considered a sub-category of political violence that is primarily distinguished by its timing and motive. It is a coercive and deliberate strategy used by political actors (incumbents as well as opposition parties) to advance their interests or achieve specific political goals in relation to an electoral contest (The Nordic Afrika Institute Policy Note 2012/3). While the frequency of elections and advancement of democracy across the continent has generated some optimism, this development has been closely accompanied by a more worrying trend of election-related violence that poses a threat to peace and secuirty. Electoral violence creates humanitarian crises, increases the risk of armed conflict or civil war and, therefore, raises the necessity of international humnaitarian intervention.

The need for intervention by the international community when death and suffering are inflicted on large numbers of people, and when the state in charge is unable or unwilling to stop it have been discussed at international and regional forums. In the 2005 World Summit, heads of state and government defined the importance and necessity of the Responsibility to Protect (R2P) framework. This idea gained scholarly and humanitarian support within the framework of international solidarity and collective security.

The availability and exchange of information ensures that no individual or country in the world today exists in isolation. Peoples and cultures are increasingly getting hybridized. The global population is influenced by the same tides of political, social, and technological change. Pollution, organized crime, and proliferation of deadly weapons show little regard for the niceties of borders and are problems without passports. As such, they are humanity's common enemy due to global inter-connectedness and interdependence. However, globalization has brought more choices and

new opportunities for prosperity and has made people more familiar with global diversity.

Despite the advantages of globalization as well as its risks, millions of people in Africa continue to face deadly conflicts in which civilians are the primary targets of poverty and injustice. Human rights abuses, torture, and extra-judicial killings have been the norm but people's awareness of their rights is increasingly assured by technological progress. Thus, a shared vision of a better world where people should not suffer for expressing their opinion on how they would want to be governed is gaining ground around the world.

In 1999, Kofi Annan argued that, "…when we read the UN Charter, we are more than ever conscious that its aim is to protect individual human beings, not to protect those who abuse them." The Responsibility to Protect (R2P) was unanimously adopted at the UN World Summit, the largest meeting of heads of state and government ever assembled. R2P was never conceived as a panacea for all the world's problems but was focused solely on preventing genocide, war crimes, ethnic cleansing and crimes against humanity. According to Gareth Evans, who played a central role in R2P's development, "…the whole point of the R2P doctrine, in the minds of those of us who conceived it, is above all, to change the way that the world's policymakers, and those who influence them, thought and acted in response to emerging, imminent and actually occurring mass atrocity crimes." R2P's purpose is "to create a new norm of international behaviour which states would feel ashamed to violate, compelled to observe, or at least embarrassed to ignore".

However, despite the common acceptance that all states have a responsibility to protect their populations from genocide, war crimes and ethnic cleansing, many people in Africa are experiencing atrocities systematically perpetrated by state as well as non-state armed groups.

The Principle of the Responsibility to Protect

R2P is an emerging international security and human rights norm which seeks to enhance the state's ability to protect civilians from four mass atrocity crimes: genocide, crimes against humanity, ethnic cleansing and war crimes. The central idea or principle of R2P is that sovereignty, the defining feature of a state, entails responsibilities as well as physical and political jurisdiction. The state may have the right to manage affairs within its borders, but it also has the fundamental responsibility of protecting populations within those borders from these four crimes.

At the 2005 UN World Summit, world leaders unanimously endorsed R2P, acknowledging that state sovereignty entails a responsibility to protect populations from mass atrocity crimes. However, in the context of state failure to protect its people, R2P is conventionally understood to have three aspects, or "pillars", each at a different level of responsibility:

- Pillar I emphasises the state's obligations to protect all populations within its own borders;

- Pillar II outlines the international community's role in helping states to fulfil this obligation;

- Pillar III identifies the international community's responsibility to use appropriate diplomatic, humanitarian, peaceful or coercive means to protect civilian populations where a state manifestly fails to uphold its obligations.

Since the endorsement of R2P in 2005, the application of the concept has received mixed responses from member states. Most states accept the fundamental idea behind the norm, but have operational concerns about its possible misuse, and are especially uncertain when the question of military intervention comes into play, a component of the third pillar. The aftermath of the intervention in Libya has

reinforced much of the uncertainty around R2P's parameters, and contributed to the division within the UN Security Council on the continuing crisis in Syria.

Causes of Violence in Africa

Adeleye Oyeniyi (2011) argues that conflict usually occurs primarily as a result of a clash of interests in the relationship between parties, groups or states because they are pursuing opposing or incompatible goals. Multiparty democracy appears to have revived ethnic royalties which have been associated with ethnic violence. Muigai (1995) and Ndegwa (1997:599) affirm that multiparty democracy has been a prelude to ethnic competition and has led to protracted transitions or outright conflict in Kenya. Three important causes of conflict in Africa have been identified as:

- *Conflict Governance*: State dictatorships trying to shore up ethnic autocracies are under attack by increasingly militant opposition groups encouraged by both external and internal pro-democracy and human rights organizations;

- *Conflict of Economic Development:* The economic sovereignty of African states, never strong before, is being almost terminally undermined by pressures to join regional trading blocs and the growth of cross-border trading networks. This conflict also includes the crisis of production and distribution of resources and the competition arising therefrom; and

- *Conflict arising from militarization of the Society:* Arising from abundance of weaponry and trained soldiers and untrained volunteers available to any would-be warlord with resources and determination.

The first two causes could be considered important as militarization of the society is a direct consequence of the two issues. The conflict of governance arises from the

democratization process. Although considered as the solution to Africa's problems, democracy has become a major source of conflict in Africa. Given the nature of political power in much of the continent, where power remains linked to ethnic agendas and resource control, several African countries have been confronted with extreme tensions created by elections. The good news is that although this process has been slow and painful, it has been shown that democracy is far better than dictatorship. Multiparty systems are increasingly the norm, two-thirds of African countries now have term limits for the presidency, and at least 14 leaders have stepped down from power as a result (The Economist, 2008). However, political violence in some african countries especially before, during and after elections has considerably increased and millions of innocent people have been killed or forced to flee their countries.

Election and Political Violence in Africa

Elections in Africa constitute a major driver of political violence. Though violence has been a long-standing feature of the democratisation process in Africa, its recent manifestations before, during and after elections have assumed an unprecedented magnitude in addition to their changing form and character. According to the Armed Conflict Location and Data Event Project (ACLED), the number of conflict events and actors responsible has risen dramatically since 2006 in Africa, with the largest increase coming from political militias and government forces opposing them. The situation is complicated by the absence/paucity of democrats who really have a democratic mindset, and can play the game of politics according to established standards and rules. This leads to de-institutionalisation of the people in the democratisation process (Omotola, 2009). The problem of access to power is often determined by ethnic identity with politicians paying the ethnic card to mobilise votes. Much of the political violence is directed (or tacitly allowed) by ruling regimes and their allies, to opposition

political parties, and loosely organized groups of ordinary individuals not only at times of electoral competition but also in puzzlingly 'routine' everyday violence. Political observers have questioned and theorized how and why leaders instrumentally use force, and how civilians respond: by exhibiting greater allegiance or increasing hostility towards their leaders.

The rise in the number of events has corresponded with a dramatic rise in fatalities with widespread human rights abuses and violations and the question of protection of the people. While the majority of these may be attributed to political militias, a significant rise in fatalities is attributed to ethnic militias and government forces. Nearly 40,000 people were killed by various perpetrators in 2014, a more than 500% rise since 2006. It is therefore clear that the people cannot be protected by their governments in such situations. The issue then is who has to protect the people when some governments are unwilling or are actually the source of insecurity and human rights abuses (European Institute for Gender Equality, 2014).

Need for More R2P in Africa

Africa has witnessed the world's most brutal conflicts and civil wars. Currently, policy makers, civil society and the international community all concede that past atrocities such as in Rwanda must serve as a lesson for preventing recurrence in the future. However, implementing the doctrine of R2P has been difficult. An important challenge to R2P is that African states, irrespective of their political configuration, wealth or stability adhere to the principle of sovereignty. One of AU's core objectives is to defend the sovereignty, territorial integrity and independence of its member states. In an attempt to redress the weakness of the OAU, the new AU gives the Union the right to intervene in a member state pursuant to a decision of the assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity. However the AU

appears to have wisely used the phrase "right to intervene" and not "responsibility to protect". These challenges are clearly visible as the AU, and international community have been unable to fully enforce the R2P doctrine in the ongoing crisis in Darfur, South Sudan and Burundi. These challenges have led to questions of the viability of the doctrine. What is happening in a number of African countries demonstrates the international community's failure to act effectively.

The R2P has been effectively paralyzed in practice as evident in the crises in Burundi and South Sudan where civilians are paying a high price which would have been ideal opportunities for the international community to revive the R2P as a tool to protect civilians. More than 400 people have died in Burundi's political violence since April and more than 200,000 people have fled the country and are living in precarious conditions in refugee camps. In South Sudan, fighting between the government and rebels has produced one of the world's largest humanitarian emergencies with 2.3 million people forced to flee their homes: about 650,000 of these across borders as refugees and 1.65 million displaced inside the country. Despite the presence of a UN peace mission (UNMISS), these conflicts are marked by violations of international humanitarian law and grave human rights abuses.

Weaknesses of R2P in Africa

Humanitarian intentions in the name of R2P have been dominated by the question of whether and in what circumstances these interventions were legitimate or acceptable to the international community. The 2011 intervention in Libya sparked a different policy debate on how protection should actually be conducted. A Brazilian proposal on "Responsibility while Protecting"(RwP) articulated the need for responsible means of protection, particularly when military force is used in the name of collective security and humanitarianism. The proposal raised important normative issues

and contributed in changing the terms of the humanitarian intervention debate. Yet, while RwP was extensively debated, it was never sufficiently developed to materialise into specific proposals that could address the problems of collective security and human protection in practice. As debates about the practical implementation of R2P gain renewed strength, the ideas articulated in the Brazilian proposal provide a useful starting point for advancing reform.

There is now universal acceptance of the concept that all states have a responsibility to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. There is no UN member-state today who would boldly proclaim that the massacres perpetrated behind sovereign borders were solely the responsibility of the relevant government. Similarly, no government has challenged the argument that the international community has an obligation to assist a state if it is struggling to protect its people. In addition, no government would profess that when faced with atrocities perpetrated by a state or non-state armed group, the international community should not protect the vulnerable and punish the perpetrators.

In Africa, the growing concern that the traditional state-centric view of security with its notion of sovereignty provided an impenetrable shield for abusive governments. The manipulation and modification of constitutions is a common problem in Africa. Constitutional changes have often resulted in the death and displacement of

hundreds of people. Acting tough toward any government that inflicts damages on its people in the search for power should set an example to demonstrate AU/UN commitment to protecting the civilian population. Lack of AU action may have discouraged the United Nations and international community from taking strong measures as well. The case of Burundi raises the question of whether the AU or UN can effectively protect civilians in the process of democratic change in Africa.

Conclusion

Despite instituting preventive measures in Africa, there are risk factors that may lead to internal conflict during the democratisation process. The growing awareness of people's political rights and politicians' greed for power are two likely opposing factors that lead to conflict. Violent conflicts have occurred in Kenya, Burundi, Uganda and Democratic Republic of Congo before, during and after elections. These conflicts have demonstrated the need for protection of civilians amidst mass human rights violations. However, neither the African Union nor the United Nations has proved their capacity to implement the R2P principle despite their legal basis on the responsibility to protect. There is a need for more willingess from the AU and UN to address the gap between its decisions, rhetoric of compliance, and the reality of responses on the ground. It is time for the AU and UN to evaluate critically the implementation of R2P in Africa as some countries are more likely to fall in deep ethnic and political conflicts in the course of the democratization process.

References

Adeleye Oyeniyi (2011), Conflict and Violence in Africa: Causes, Sources and Types

Omar Garcıa-Ponce and Benjamin Pasquale (2013), How Political Violence Shapes Trust in the State.

Straus, Scott and Charlie Taylor. 2011. "Democratization and Electoral Violence in Sub-Saharan Africa, 1990-2007". Paper presented at the Annual Meeting of the American Political Science Association.

Tarling Nichoolasand Gomez Edmund (2008), The State, Development and Identity in Multi-ethnic Societies: Ethnicity, Equality and the Nation. New York: Madison.

Wagner, D. (2015), Africa's Rising Political Violence.

Washington DC: Walden Univesity Press..

The Constitution, National Security Council and the War on Terror in Kenya

Samuel A. Nyanchoga

The Concept of War on Terror

According to Schmitt and Shanker (2005) "War on Terror" (WOT), also known as the Global War on Terrorism (GWOT) refers to the international military campaign that started after the 11 September 2001 terrorist attacks on the United States. Consequently, the United States led a coalition of NATO and non-NATO nations in the campaign against al-Qaeda and other militant extremist organizations. Therefore, the term 'war on terror' adopted a global military, political and legal strategy against state and non-state actors designated as 'terrorist' or supporting terrorist activities. Political theorist, Richard Jackson, argues that WOT is a set of actual practices, wars, covert operations, agencies, and institutions that are directed against terrorism. Bruce Hoffman, a historian at Georgetown University, defines WOT as an endless war, with no clear war boundaries and directed against multiple enemies, not just one adversary.

Comparative Legislative Provisions on the War on Terror

The United Kingdom's anti-terrorism strategy may be traced back to the Prevention of Violence Act of 1939 which was in response to the Irish Republican Army (IRA) violence. In 1973, this Act was repealed and replaced by the Prevention of Terrorism Act. After the September 11 terrorist attack in the USA, the United Kingdom passed the Anti-Terrorism, Crime and Security Act of 2001 (ATCSA) and defined a terrorist as a person or member of a terrorist group, who commissions, prepares, and instigates acts of international terrorism. In 2005, the United Kingdom also enacted the Prevention of Terrorist Act that gave the government powers to control and impose measures on a person,

persons or groups that pose the risk of terrorism to members of the public. The Act allowed for two types of control orders namely derogating and non-derogating approved by the British parliament. The derogating order required the approval of a judge while non-derogating orders required the approval of the Secretary of State .Following the bombing of London's underground transit system in 2006, the United Kingdom passed the Prevention of Terrorism Act which increased the pre-charge detention of suspects from 14 to 28 days. The Act also criminalized acts of inducement, praise, celebration or encouragement of terrorism, to supplement the common law offence of incitement. The UK's anti-terror powers gave the government increasing powers to deal with terror activities.

In similar terms, Israel has passed several anti-terrorism legislations under the Prevention of Terror Ordinance (PTO) since 1948. The PTO gave the Israeli government powers against those deemed to be terrorists. In PTO standards, a terrorist is an individual, group of individuals or organization(s) that resort to threats, acts of violence that cause or may cause injury or death. The PTO was amended in 1980, 1986 and 1993 as terrorist activities changed in tactic and in an attempt by the Israeli government to comply with internationally accepted democratic standards and human rights. Over the years, the Israeli government created new laws to combat terrorism: Defense Emergency Regulations of 1945, the Incarceration of Unlawful Combatants Law of 2002; Criminal Procedure Law of 2006 and the Anti- Terrorism Act of 2010. The Anti-Terrorism Act of 2010 states that a terrorist is an individual, group of individuals or organizations who promote and/or execute acts

of terror. This covers or encompasses auxiliary organizations that implicitly partake in acts of terror by financing or advancing terrorist agenda. The 2011 Counter-Terrorism Act gave the Israeli government more powers in form of administrative detentions and control orders. The security personnel were given the powers to arrest and detain individuals indefinitely without charge, based on secret withheld evidence.

The Prison Ordinance of 2011 empowered the courts to suspend access to attorney for a terrorist suspect for up to 12 months in cases where there is suspicion that a meeting between attorney and suspect might be used to coordinate a terrorist attack. The 2012 Budget Principles Law mandates the State of Israel to withhold state funding to an organization that practices incitement to terrorism, or supports armed struggle or terrorism against Israel. Similarly, the law empowers the State to deny or withhold salary and pension funds to suspected members of terrorist groups. The Israeli state also undertook non-legislative measures on regional and international security cooperation. In February 2012, Israel signed a two-year agreement with the Organization of American States' Inter-American Committee against Terrorism (CICTE) to cooperate on counter-radicalization, counter-terrorist financing, and aviation security.

In the USA since September 2011, several counter-terrorism Acts have been passed. The Patriot Act of 2001 seeks to enhance national security. Section 203 of that Act allows sharing of information between law-enforcement and intelligence agencies which may be obtained from wire-tapping and/or tracking of conversations. Section 206 removes the due process restrictions and allows the law enforcers to conduct investigations on suspected terrorist groups or individuals. Section 311 allows greater scrutiny of charitable organizations that may engage in money laundering or provide material support to terrorist activities. The Department of Homeland Security was also established to consolidate domestic security

agencies in coordinating anti-terrorism as well as national responses to major natural disasters and accidents.

US Cyber law on counter-terrorism and electronic surveillance recognizes that the war on terror may be fought on land, in water, on air and on communication networks. It is for this reason that the US passed the Foreign Intelligence and Surveillance Act in 2008 which gave intelligence experts the legal latitude to monitor terrorist targets overseas and their communication networks and traffic. The Australian Anti-Terrorism Act 2005 allows the police to detain suspects for up to two weeks without charge and to electronically track suspects for up to a year. The Act includes a "shoot-to-kill" clause.

Counterterrorism Laws and Democratic Principles and National Interest

One of the fundamental issues that arise from the counter-terrorism laws is whether they are consistent with the fundamental democratic principles. The critics of counterterrorism laws especially civil society organizations argue that these laws tend to perpetuate and normalize anti-democratic principles.

Administrative and Control Orders

The Israeli administrative and control orders, in the thinking of many human rights advocates, violate basic and international human rights laws. Among the injurious measures included in the counter-terrorism law are administrative detention and control orders; widespread use of secret evidence and vague definitions of 'terrorist organizations', 'member of a terrorist group', and 'act of terror'. For instance, the power by the authorities to arrest people indefinitely and impose significant restrictions on their freedom of movement without charge, incarcerating an individual for extended periods of time on the basis of classified material and without due process, gravely threaten some of

the most fundamental principles of democracy. Such acts are considered illegal on the basis of Israel's basic law and on international law because they constitute a severe violation of a person's freedom and dignity. The danger attributed to administrative detention based on previous activities or motives where the state is not required to prove the accusations beyond reasonable doubt in a court of law may be an easy way out for the authorities to imprison individuals when they have no admissible evidence to prove their guilt. The international human rights law allows for preventive detention only when a government has officially proclaimed a temporary state of emergency that threatens the life of the nation.

The administrative detention procedure in Israel allows for broad reliance on secret evidence and accusations concealed both from the suspect and his lawyer. The Act preserves the widespread, routine and improper use of secret evidence materials in a wide range of sensitive proceedings, such as administrative detention, proceedings for designating a group a terrorist organization and forfeiture of property. The problems inherent in the use of secret evidence are that an individual who does not know what he is accused of, or what the accusations are based on, cannot defend him or herself against false or mistaken charges. Many of the countries including the UK, USA and Canada apply these methods.

Who is a Terrorist?

Definitions of terms such as "terrorist act", "terrorist organization" or "member of a terrorist group", may grant state authorities discretion in determining who is a terrorist. The definition of "a member of a terrorist group" as not only someone who takes active part in a terrorist organization but also anyone who "declares his consent to join a terrorist organization, and the imposing of the burden of proof of innocence on the suspect or accused to show that they are not a member of a terrorist organization is a gross violation of human rights.

Case Laws that do not Meet Constitutional Standards

The following examples of case laws demonstrate that the legislation passed did not necessarily meet constitutional standards.

In Farrakhan v. Reagan, a United States District Court considered the constitutionality of an executive order made by President Ronald Regan imposing wide-ranging and comprehensive economic sanctions against Libya which virtually halted all economic intercourse with Libya. Plaintiff Muhammad Mosque challenged the order by making a free exercise claim. Muhammad Mosque, Inc. received a $5 million loan from the Islamic Call Society, an agency of the Libyan government. After the executive order was implemented, the plaintiff was unable to repay this loan. He argued that his only dealings with the Society had been religious in nature. Furthermore, one of the plaintiff's religious beliefs included the repayment of all loans in a timely manner and preclusion of the payment of interest.

The Court held that "the Free Exercise Clause does not mandate a religious organization to transmit money to foreign governments during a national emergency. The Court did not find Muhammad Mosque's interest in the free exercise of his religious principles as outweighing the legitimate and compelling security interests of the United States.

Similarly, in Holder v. Humanitarian Law Project, the plaintiffs challenged the provision of the Patriot Act, which criminalized those providing material support or resources to certain foreign organizations that engaged in terrorist activity. The support is defined to include among other things, speech, in the form of expert advice, training, service, and personnel.

The plaintiffs sought to advocate for human rights with the Kurdistan Workers' Party, a Kurdish organization in Turkey that the US government had designated a terrorist

organization. They did not intend to further the organization's illegal ends but sought to dissuade it from violence, and to urge it to pursue lawful ends through peaceful means. However, the Court did not agree, and ruled that speech, even if nonviolent in nature, could 'unintentionally assist a third party in criminal wrongdoing'. Although the Court in Holder acknowledges that although some provisions of the Patriot Act may be challenged for being unconstitutional, the government should be allowed increasing powers to safeguard national interest.

It is clear that many countries may find counter-terrorism laws not to be in line with national constitutions but the legislations are deemed essential for national functional purposes. National security is at the height of any nation's concern and therefore legislation should be created to promote this interest as expansively as possible. First, national security will always be considered a compelling governmental interest. The courts are inclined to accept legislation in which government's compelling interests are achieved.

It is also clear that in several situations, anti-terror enactments have intruded into individuals' free exercise of rights. The UK Anti-Terrorism and Crime Security Act of 2001 allowed Government the prerogative to decide if an individual was a terrorist without having to justify how it made its determination, and the Prevention of Terrorism Act 2005 gave increasing powers to the police to arrest and detain suspects for specified periods of time. All these legislations were deemed to have violated the European Convention on Human Rights that includes free speech, free exercise of religion, freedom of thought and conscience, and freedom of expression.

These legislations were challenged in court in 2006 in R v Commissioner of the Metropolis Police (UKHL12). In this case, Mr Gillan, a foreign student, and Ms Quiton, a foreign journalist attending a protest march, sued the Commissioner of Police for unlawful detention

and for contravening the European Convention of Human Rights. The Court reasoned that public safety was more important than individual liberty. The Court further argued that even if individual liberties were violated, the circumstances compelled the government to undertake such searches and the case was dismissed.

The Kenya Constitution, Domestic Laws and the War against Terror

The Kenya constitution of 2010 lacks a direct provision on terrorism but it embodies the principles contained in the various international human rights conventions. Article 5 of the general rules of international law shall form part of the law of Kenya and Article 6 holds that any treaty or convention ratified by Kenya shall form part of the laws of Kenya under this constitution. This provides for ratification of treaties which provide provisions for terrorism and after the ratification, such treaties form part of the law.

The Constitution of Kenya, under Article 238, defines 'national security' as:

"the protection against internal and external threats to Kenya's territorial integrity and sovereignty, its people, their rights, freedoms, property, peace, stability and prosperity and other internal interests."

In promoting national security, it is then expected that any national organ tasked with upholding national security shall abide by certain principles. These are referred to as the 'principles of national security' envisaged under Article 238(2) which reads that:

a) *National security is subject to the authority of the Constitution and parliament;*

a) *National security shall be pursued in compliance with the law and with utmost respect for the rule of law, democracy, human rights and fundamental freedoms; and*

a) *In performing their functions and exercising their powers, national security organs shall respect the diverse cultures of the communities within Kenya;*

The rule of law dictates that parliament has the authority to legislate and in so doing, due regard has to be given to the principles of national security as well as the need to protect fundamental human rights and freedoms envisaged under Chapter Four of the Constitution.

Nonetheless, the tension between the protection of fundamental human rights and national security has always been a recurring theme not only in Kenya but all over the world. Similar problems have been seen in Pakistan, France as well as the United Kingdom. Whilst governments are expected to abide by the Bill of Rights accorded to its citizens, it has been argued that fighting terrorism is an area which inevitably requires derogation of certain rights and freedoms. A matter clearly supported under Article 24 of the Constitution. This argument, however, has drawn widespread criticism from human rights organizations. Particular focus has been on the extent to which the security authorities treat members of the public in maintaining national security.

The Kenya Constitution in itself does not expressly provide for laws on national security and terrorism. Procedural and substantive law on the same is usually to be found within domestic legislation. Acts of terrorism are usually criminal in nature and in effect draw criminal liability. Therefore, in handling threats to national security, one draws reference from the principle legislation which is the Constitution followed by a host of Acts of parliament that cater for criminal offences. This is inclusive but not limited to: the Penal Code (Cap 65); the Criminal Procedure Code (Cap 75, sections 52, 64 and 65); Protection of Aircraft Act section 3; Official Secrets Act (Cap 487 section 4); Firearms Act (Cap 114); Evidence Act (Cap 80); Prevention of Terrorism Act (No 30 of 2012); the National Intelligence Service Act (No 28 of 2012) and the Prisons Act (Cap 90).

Moreover, Article 2 (5) of the Constitution gives recognition to the general rules of international law in the laws of Kenya provided that the State ratifies any such Conventions. Article 2(5) reads: *"The general rules of international law shall form part of the law of Kenya."* Article 2(6) further adds that, *"Any treaty or convention ratified by Kenya shall form part of the law of Kenya under the Constitution."*

The need to protect the fundamental human rights and freedoms was born out of the Universal Declaration of Human Rights (UDHR, 1948). Usually, declarations do not require signatures or ratification by governments and usually have no binding effect. The UDHR, however, is a special case. It is regarded as having binding legal authority because it has been incorporated so often in the constitutions of states as well as in hundreds of United Nations resolutions and conventions. This reaffirmation of the principles and authority of the Declaration has caused legal scholars to consider the UDHR to be part of international customary law

Combating Terrorism in Kenya: Attacks on Human Rights

Over the years, Terrorism has established itself in Kenya as a real threat. Among some of the most daring and outrageous attacks witnessed within this period include the one on the Westgate Mall in Nairobi in September 2013 which left 67 civilians dead. This was followed by the killings of 28 civilians on a bus travelling to Nairobi a year later. A month on, several Kenyans were beheaded near the Somalia border. In the Garrisa University College incident, 147 students were murdered in cold blood in 2015. The terrorist group *Al-shabaab* has consistently taken responsibility for these attacks. In spite of all this, the response to terror attacks by the government of Kenya has always been wanting. Kenya's efforts in curbing terrorism have been marred with a series of human rights violations

towards civilians by the Kenyan security forces. In implementing the Prevention of Terrorism Act 2012, the government has been accused of infringing on the fundamental rights and freedoms of the members of the public.

Various police units have been implicated in the torture, disappearance, and unlawful killings of alleged terrorism suspects and individuals of Somali origin, and Somali refugees in Nairobi and other parts of the country. In the World Report of 2015, a series of articles was written by Human Rights Watch documenting acts of extra-judicial killings, arbitrary detentions and torture of suspected terrorists by the Anti-Terrorism Police Unit (ATPU).

Lack of Accountability and Terrorism

Despite the gains introduced by the promulgation of the Constitution of Kenya 2010, accountability mechanisms remain weak and have not been adequately supported by the executive arm of government. Public complaints of police abuses have not been adequately dealt with. The response to major incidents such as the September 2013 attack on Nairobi's upscale Westgate mall (which left 67 people dead), was poorly coordinated. A UNEP report on environmental crimes released in 2014 indicated that KDF was indirectly funding Al-Shabaab by facilitating the illegal trade in charcoal and sugar in Somalia.

The Security Laws (Amendments) Bill 2014

In the hope of dealing with the terror problem, the government crafted the Security Laws (Amendment) Bill 2014. The Bill was hurriedly published and tabled in the National Assembly by exploiting provisions of the Standing Orders that allow for a reduction of time in terms of the number of days a Bill is required to be passed and assented to. The time within which the Bill was

published did not allow enough time for scrutiny. The Constitution of Kenya, under Article 118, provides that Parliament should facilitate public participation and involvement in the legislative business of Parliament. Part of the Article reads: *Parliament shall conduct its business in an open manner, and its sittings and those of its committees shall be open to the public; and facilitate public participation and involvement in the legislative and other business of Parliament and its committees.* Only after complaints from the public, opposition parties and civil society did the National Assembly extend calls for views from the public on the Bill.

The Act sought to make amendments to 22 Acts in Kenya such as the Public Order Act, Penal Code, Criminal Procedure Code, Registration of Persons Act, Evidence Act, Prisons Act, Firearms Act, Radiation Protection Act, Traffic Act, Labour Institutions Act, National Transport and Safety Act, Refugees Act, National Intelligence Service Act, Prevention of Terrorism Act, Kenya Citizenship and Immigration Act, National Police Service Act and Aviation Act. However, these amendments were challenged at the High Court where orders were sought to have the Security Law declared unconstitutional. The Court later suspended eight provisions of this Law and requested the Chief Justice to constitute a full Bench to rule on its constitutionality.

The first provision of the law to be suspended was Section 12 that limits the freedom of speech and freedom of media by limiting the publication or distribution of material likely to cause public alarm, incitement to violence or disturb public peace. The law does not define such material and hence gives broad discretion to the security services in deciding when and where to apply the law. Section 16, which allowed the Prosecution to withhold evidence from the Defence up until close to the hearing date, was also suspended. This arbitrarily limited the right to a fair trial which is a non-derogable right under the Constitution. One of the most controversial provisions is

Section 48 that sought to limit the number of refugees and asylum seekers in Kenya. It states that the number of refugees and asylum-seekers permitted to stay in Kenya shall not exceed one hundred and fifty thousand persons. This is in a country hosting more than half a million refugees and asylum seekers.

The United Nations Convention relating to the Status of Refugees and the Organization of African Unity [OAU] Convention Governing the Specific Aspects of Refugee Problems in Africa, which Kenya has ratified, are all against the principle of taking back refugees to areas where they may suffer harm. While there are no specific provisions on the Constitution, Section 48 of the Security Law would have gone against Article 2 of the Constitution that domesticates international treaties ratified by Kenya.

Suspended also was Section 56 that sought to give the National Intelligence Service powers to undertake covert operations and Section 64 that outlawed publication of material that supports terrorism, training for purposes of terrorism, foreign terrorist fighters and travelling to a country for purposes of terrorism. Again, this gives wide discretion to the security agencies in determining who they perceive as a terror suspect, and under their own determination, proceeding to limit fundamental freedoms such as that of movement. However, Article 24 of the Constitution does allow for the limitation of rights and freedoms through legislation. The limitations however should be through the least restrictive means and respect the letter and spirit of the Constitution.

The Kenya Constitution, National Security Council and Fight against Terror

The Kenya Constitution 2010 established the National Security Council. The Council exercises supervisory control over national security organs and performs any other functions prescribed by national legislation. It is stipulated that the President shall preside at meetings of the Council and that the Council shall integrate the domestic, foreign and military policies relating to national security in order to enable the national security organs to co-operate and function effectively. The Council is required to report annually to Parliament on the state of security of Kenya. The Council may, with the approval of Parliament, deploy national forces outside Kenya for regional or international peace support or other supportive operations; and approve the deployment of foreign forces in Kenya. The national security organs are the Kenya Defence Forces; the National Intelligence Service; and the National Police Service whose collective aim is to promote and guarantee national security in a non-partisan manner or without furthering the interests of a particular political party or political interests prejudicial to the constitution.

The Kenya Police Service: Legal and Capacity Challenges in Fighting Terrorism

The concept of state security in Africa is problematic given the historical diversity of states and multiple networks of power structure and relations. Many African states may be described as weak states, quasi-states, fragile states, pseudo states and shadow states. The Kenyan state, like many in Africa and elsewhere in the developing regions, can scarcely guarantee security for its citizenry The underlying challenges of the Kenya Police Service in fighting terrorism lie in the growing and evident incapacity of the state to provide the necessary infrastructure for policing, such as operational equipment, facilities, intelligence information sharing and coordination. Examples include the Garissa Massacre in April 2014 and West gate Mall terrorist incidents. The freezing of police recruitment between 2008 and 2010 awaiting the institutionalization of the Police Service Commission in line with the recommendations of the Ransley Report (The National Taskforce on Police Reforms) had serious implications for security. The Kenya Police Strategic Plan of 2008 - 2012

envisaged to have expanded enrolment to possibly meet the UN recommended police - population ratio of 1:450 by 2012 which is still far from a reality as it stands at about 1:900 far below the projected target of 1: 650 in 2007.

The poor terms of service including poor salaries, poor housing, poor or lack of insurance schemes, and prolonged hours of working make the police force susceptible to abetting crimes and receiving bribes. There is also the challenge of an ICT-noncompliant police institution. The annual budgetary allocation of the Kenyan police is hardly enough to ensure that they discharge their duties effectively. An analysis of the financial allocation in 2004 was Ksh. 8.7 billion; in 2009 it was Ksh. 3.6 billion; and in 2013/2014 it was Ksh. 64.4 billion. Over the years, the inadequate budgetary allocations have been further evidenced in the observed infrastructural deficits notably in transport.

Policing transnational crimes such as terrorism, money laundering, and cyber-terrorism pose serious challenges to the police. These are mainly in the form of personnel capacity and operational infrastructure gaps. The legal framework of these growing crimes is also impaired by deficiencies in formulation and enforcement of regulatory laws. For instance, on 30th April 2003, the government introduced the suppression of terrorism bill (through Supplement No. 38 of the Kenya Gazette). The anti-terrorism bill was abandoned midway as lobbyists opposed to it perceived that if enacted, it could stereotype and victimize the Muslim population. Critics of the bill argued that it was a reproduction of the US Patriots Act. The secrecy concerning the training and equipping of the special units of the police for counter-terrorism operations have in the past increased the chances of repression and unaccountability by a police largely perceived to be incompetent, corrupt, repressive and alienating the public that it serves.

There is lack of comprehensive legislation to curb cyber-terrorism, identity impersonation,

and money laundering. The Kenya Communications Amendment Act of 2008 in which cyber-crimes are defined is not sufficiently comprehensive as there are a number of new crimes that are not covered by the Act. For instance, researchers have found out that over the past two years there has been an increase in fraud involving mobile phone money transfer services that is not adequately addressed in the 2008 legislation.

According to the International Narcotics Control Strategy report entitled *Money Laundering and Financial Crimes 2011*, Kenya serves as a major hub for money laundering. The laundering of funds is attributed to Somali piracy, corruption, misuse of casinos, and narcotics proceeds. Further, Kenya's financial system is said to be laundering over US$100 million each year. The report argues that the unregulated networks of the *Hawala* money remittances mostly used by Somali refugees in the country are largely untracked by the government.

Policing Illegal Immigrants

Police officers find it challenging to track down illegal immigrants, defined as "aliens" under Kenyan law. The majority of illegal immigrants are from the neighbouring failed state of Somalia. The major challenge the law enforcers face is difficulty of differentiating between Kenyan Somali and Somali-Somali refugees" both of whom are the same ethnic Somalis. The Somalis have often been described as a "transnational state" and have in the past posed a threat to national sovereignties in the greater Horn of Africa through their irredentist agitations and campaigns. The first reason is that the Kenyan government lacks the capacity to police the country's vast north-eastern borders, coupled with the fact that the security forces themselves are unable to adapt to the harsh ecology of the semi-desert environment - a condition to which the traditionally nomadic Somalis are naturally adapted and which criminal elements amongst them easily exploit

for cross-border crimes. The second factor is that many of the refugees have Kenyan Somali relatives, which in part contributes to their invisibility once they cross into the Kenyan side of the border. Continuing violent conflict and instances of drought in war-torn Somalia merely exacerbate the outflow of people from that country. Lack of proper policing and laxity of the immigration department facilitates and allows illegal immigrants access into the country without adhering to the due process of the law hence compromising security and national sovereignty.

In addition, the criminal justice system is faced with significant challenges. One of these has to do with aspects of the 2010 constitution and specifically Article 49 subsection f (i) on the Bill of Rights. This clause enumerates and guarantees the rights of an arrested person. Under the constitution, a police officer is required to take a suspect to court within 24 hours of arrest. However, police officers argue that 24 hours is insufficient to prepare and produce evidence for court prosecution. The implication of this is that at times, suspects hurriedly brought to court can be set free for lack of evidence. This has resulted in some terrorist suspects released from police custody for lack of evidence being involved in other terrorist activities.

There is also the challenge of intelligence coordination. According to Afua Hirsch *of The Observer* on 28 September 2013, the National Intelligence Service (NIS) was strongly criticized for poor coordination and sharing of intelligence information. Unconfirmed information in *The Star* newspaper reported that two unnamed NIS officers had passed warnings about an attack to the police.

National Intelligence Service and the Fight against Terrorism

The Kenya National Intelligence Service, which is both the domestic and foreign intelligence agency for Kenya, grew from the Special Branch or Directorate of Security

Intelligence in 1926 to the National Security Intelligence Service in 1998. The mission of NIS is to detect and identify any potential threat to Kenya, advise the President and Government of any security threat to Kenya and take steps to protect the security interests of Kenya whether political, military or economic and gather intelligence and counter-intelligence. The NIS is answerable to Parliament's oversight authority in so far as its operations and policies are concerned. Though terrorism stands out as a potent threat to national security due to its amorphous nature, destructive capabilities, potential to create internal armed conflicts and its use of asymmetric warfare to create panic and manipulate the government, the use of counter-terrorism measures to neutralize terrorist organizations, networks and cells by NIS is commendable. The existence of an effective national defense force and intelligence agencies and their mutual cooperation and coordination has enabled the nation avert grave danger. Enactment of anti-terror legislation does create a conducive environment for pre-emption, neutralization and response to terror attacks. The strategic deployment of police and paramilitary officers augmented by civil cooperation, contributes to minimization of crime and terrorism.

The utilization of intelligence services by both NIS and the military to detect, identify, locate and neutralize or avert threats has gone a long way in protecting the strategic interests of the nation. The intelligence services have also been able to unmask espionage activities through effective counter-espionage. The NIS has also fulfilled its task of protecting highly classified information although there have been instances of criminal elements revealing classified information to unauthorized parties. However, public opinion on the effectiveness of the NIS has been divided especially in the last two years due to increased cases of terrorism carried out within the country with the security organs seemingly unable to stop the attacks.

Before the legal amendments, security agents were only required to provide the Police and

Defence Forces with intelligence reports and could not compel them to act on the same, leading the NIS to point fingers of culpability especially at the Police Service, by accusing it of failing to act on its reports following the many acts of terror that occurred in different parts of the country especially between 2012 and 2014. Indeed, the practice of finger-pointing between the NIS, the Police, and other agencies was also addressed in the passing of the December 2014 Security Laws Amendment Bill and the establishment of a new body known as the National Counter-Terrorism Centre via amendments to the Prevention of Terrorism Act. Despite spirited public protestations, these proposals carried the day when on the 19th of December 2014 amendments were made to the Prevention of Terrorism Act 2012 giving the Cabinet Secretary for Internal Security and the National Assembly the authority to permit the NIS and its sister security organs a freer hand to intercept personal communication in the course of their counter-terrorism work. On the same date, officers were given authority to make arrests following amendments to Section 6 of the National Intelligence Service Act of 2012.

According to Major General Charles Mwanzia (retired) who headed military intelligence for a decade, corruption and poor management of intelligence information contribute to increased terrorist attacks. The Security organs worked as rivals rather than partners, thus making coordination difficult as witnessed in the Westgate and Garissa attacks in 2013 and 2015 respectively. However, even if intelligence were better coordinated, corruption would still hinder surveillance and tracking of cells. For the equivalent of a few hundred dollars slipped to an officer, a suspect can buy a passport, pass a checkpoint without searches or purchase arms, experts observe.

According to Transparency International, Kenya's police force is among the most corrupt institutions in East Africa, with officers accounting for almost half of all bribes transacted in the country in 2014. Al-Shabaab and other criminals can both buy passage, visas and other useful items from the police and other governmental services thus effectively making the border with Somalia highly porous with terrorists able to avoid the police.

Kenya Defence Forces (KDF)

The Kenya Defense Forces utilize particularly the strategy of foreign internal defense (FID) to combat or neutralize actual terrorist activities. FID is necessary because terrorist groups such as *Al Qaeda* or *Al Shabaab* are transnational in nature and can easily co-exist with local insurgency groups to destabilize the political and economic infrastructure of sovereign states. The principles and practice of FID, sovereignty and national interest help us to understand the basis of the Kenya Defense Forces' incursion into Somalia to protect the sovereignty and national interest of the Kenyan state. The armed attacks committed by armed bands, groups, irregulars or mercenaries were of high threshold under Article 51 of the UN Charter and therefore the use of force was constitutionally justified.

Recommendations and Way Forward

Terrorism is currently a crime without borders. The threats to Kenya from domestic and international terrorism are becoming more severe. Terror threats directed towards Kenya are more diverse than ever and becoming ever more dispersed. The threats from *Al shabaab* and its sympathizers are simply ones that cannot and should not be ignored. There is a need for the country to tighten its grip on the war on terror by giving due regard to certain recommendations with the aim of acting upon them. Since the Constitution of Kenya 2010 lacks a direct provision on terrorism, it may be necessary to revisit it on matters of terrorism. Secondly, it will be necessary for Kenya to ratify international conventions that have provisions on the fight against terrorism.

It is therefore recommended that a stable buffer zone in terms of government structures and strong military presence will prevent the infiltration of the Al Shabaab into Kenya. The creation of the buffer zone will be of strategic importance as Kenya opens the northern transport corridor and mineral exploration. This may take up to ten years to stabilize the state of Jubaland or the buffer zone both of which are of importance to Kenya's national security.

Given the fragility of the state of Somalia, the bulk of security efforts should be allocated toward destroying terrorist sources in that country. Strengthening Homeland security is the other option through institutional capacity building, intelligence information sharing and acting on the information. Abetting corruption especially on matters of national security should be regarded as sedition. An effective counter-terrorism strategy which brings together domestic and international co-operation and encompasses material and timely response will be crucial. Lastly, it is important that security forces undertake risk assessment in security decision-making

References

Afua Hirsch, in The Observer, September 28, 2013.

Ajulu, R. (2002). "Politicized Ethnicity, Competitive Politics and Conflict in Kenya: A Historical Perspective." African Studies 61 (2): 251-68.

Alston, P (2009). "Statement by Professor Philip Alston, Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions," delivered at the United Nations Human Rights Council (Geneva, June 3, 2009), http://www.un.org/webcast/unhrc/11th/statements/Alston_STMT.pdf (accessed February 10, 2011).

Baker, B. (2006). "Beyond the State Police in Urban Uganda and Sierra Leone." Afrika Spectrum 41 (1): 55-76.

BBC, 'Garissa attack: How it has changed Kenya' (BBC News Africa 2015) <http://www.bbc.com/news/world-africa-32430122> accessed 23 April 2015

Blunkeet, 2001.

Bradbury, M. and Kleinman, M. (2010). Winning Hearts and Minds? Examining the Relationship between Aid and Security in Kenya. Boston: Feinstein International Center, Tufts University.

Budget Guide 2013/14 - Institute of Economic Affairswww.ieakenya.or.ke/publications/doc.../277-budget-guide-2013-14

Buhler (2010).

Business Daily

Capital FM Kenya, http://www.capitalfm.co.ke/news/kenyanews/kenyan-police-officers-get-pay-rise-9009.html (accessed March 31, 2011).

Charles M. Mwalimu, 'Refugees and State Security: Kenya's obligation under International Humanitarian Law and the Impact of the Law on State Security'[2012] <http://www.academia.edu/3471520/Refugees_and_ State_Security_Kenyas_obligation_under_International Humanitarian Law and the Impact of the Law on State Security> accessed 21 April 2015.

Commonwealth Human Rights Initiative (CHRI) and Kenya Human Rights Commission (KHRC). The Police, The People, The Politics: Police Accountability in Kenya. Nairobi: CHRI and KHRC, 2006.

Constitution of Kenya 2010 a 118

Constitution of Kenya 2010 a 2 (6)

Constitution of Kenya 2010 a 238(2)

Country Reports 2012: Middle East and North Africa Overview in http://www.state.gov/j/ct/rls/crt/2011/195544.htm; 2011 International Narcotics Control Strategy Report (INCSR), Volume 2, Money Laundering and Financial Crimes: http://www.state.gov/j/inl/rls/nrcrpt/index.htm.

Daily Nation (2014). "Gichangi set to Get New Powers Over Spy Agency". Business Daily. Retrieved June 2014.

Daily Nation September 4, 2014 and Daily Nation, February 10, 2015

Daily Nation, "Kibaki Says Refugee Problem a Concern," Daily Nation, 9/8/2011; http://allafrica.com/stories/201108100349.html (accessed August 10, 2011).

Daily Nation, "Probe fails to link Kenyan MPs to Drugs". Daily Nation, 30/01/2011.

Daily Nation, "Team Proposes New Syllabus as Hiring of Police Set to Resume." 19/02/2011.

Daily Nation, "Team proposes new syllabus as hiring of police set to resume," Daily Nation, 19/02/11.; Kenya Police Service, "Strategic Plan 2008-2012"

Eevidenhttp://www.progressiveradionetwork.com/the-progressive-news-hour/.ce.

Farrakhan v. Reagan, a United States District Court

FISA Amendments Act of 2008, Sec105.

Francis, D. (2005). 'Introduction' in D. Francis (ed) (2005). Civil Militia: Africa's Intractable Security Menace? Aldershot: Ashgate, pp. 1- 29.

Galtung, J. (1990). "Violence and Peace", in P. Smoker et al (eds.), A Reader in Social Studies. New York: Pergamon Press, pp. 9-14.

Galtung,1990

Gimode, E. (2001). "An Anatomy of Violent Crime and Insecurity in Kenya: The Case of Nairobi in the Last Quarter of the Twentieth Century." Paper presented at a Conference on The Urban Experience in Eastern Africa. Nairobi: British Institute in Eastern Africa.

Gimode, E. (2007). "The Role of the Police in Kenya's Democratization Process" in Godwin, R. Murunga and Shadrack, W. Nasong'o (eds.), Kenya: The Struggle for Democracy. London: Zed Books, pp. 227-60.

Giraldo, J. and Trinkunas, H. (2007). "Transnational Crime" in Collins, A. (ed.), Contemporary Security Studies. New York: Oxford University Press, pp. 346-67.

Government of Kenya (2008). Commission of Inquiry into Post-Election Violence Report. Nairobi: Government Printer.

Government of Kenya (2010). Ministry of Finance. Medium Term Budget Strategy Paper. Nairobi: Ministry of Finance. http:siteresources.worldbank.org/INTDEBTDEPT/ Resources/468980-1295462530893/KenyaMTD502.pdf (accessed March 11, 2011).

Hills, A. (2006). "Trojan Horses? USAID, Counterterrorism and Africa's Police." Third World Quarterly 27(4): 629-43.

Holder v. Humanitarian Law Project

Human Rights Watch (2008). Ballots to Bullets: Organized Political Violence and Kenya's Crisis of Governance. New York: Human Rights Watch, 2008.

Human Rights Watch (HRW) (2002). Playing with Fire: Weapons Proliferation, Political Violence and Human Rights in Kenya. New York: Human Rights Watch.

Interview Analysis - Kenya's intelligence work hurt by corruption, rivalries, Nairobi by Edmund Blair, Sept 2013.

J. Meservey, 'False Security in Kenya' [2015] 1, 1

Kamau, C. (2006). "Kenya and the War on Terrorism". Review of African Political Economy 33 (107): 133-41.

Katumanga, M. "A City under Siege: Banditry and Modes of Accumulations in Nairobi, 1991-2004." Review of African Political Economy 32, no. 106 (2005): 505-20.

Katumanga, M. and Cliffe, L. (2005). Nairobi – A City Besieged: The Impact of Armed Violence on Poverty and Development. Bradford: Centre for International Cooperation and Security Department of Peace Studies.

Kenya Constitution 2010, article 5 and 6.

Kenya National Commission on Human Rights (KNHCR) (2008). The Cry of Blood: Report on Extrajudicial Killings and Disappearances. Nairobi: KNHCR.

Kenya Police Service (20030. Kenya Police Service Strategic Plan 2003-2007 Draft 2. Nairobi: Kenya Police Service.

Kenya Police Service (2008). Strategic Plan 2008-2012. Nairobi: Kenya Police Service.

Kenya: Halt Crackdown on Somalis' (Human Rights Watch, 2014) <http://www.hrw.org/news/2014/04/11/kenya-halt-crackdown-somalis> accessed 23 April 2015.

Kenya: Somalis scapegoated in counter-terror crackdown (Amnesty International 2014) < http://www.amnesty. org/en/news/kenya-somalis-scapegoated-counter-terror-crackdown-2014-05-26 > accessed 12 July 2014 (emphasis added).

Kimani, M. (2012). "Security for the Highest Bidder: Shoddy Policing for the Many, Costly Private Protection for the Few." Accessed on May 20, 2012 at http://www.un.org/ en/africarenewal/vol23no3/233-security.html

Liberty or Safety: Implications of the USA Patriot Act and the U.K.'s Anti-Terror Laws on Freedom of Expression and Free Exercise of Religion. Supra note 6 at 881.

Lucy Kiama and Rufus Karanja, 'Asylum Space in Kenya: Evolution of Refugee Protection over 20 years' [2013] FMR < http://www.fmreview.org/25th-anniversary/kiama-karanja > accessed 12 July 2014.

Mamdani, M. (1996). Citizen and Subject: Contemporary Africa and the legacy of Late Colonialism. London: James Currey.

Mbembe, A. (2001). On the Postcolony. California: University of California Press.

Mkutu, K. (2006). "Small Arms and Light Weapons among the Pastoral Groups on the Kenya- Uganda Border Area." African Affairs 106(422): 47-70.

Mkutu, K. and Kizito, S. (2007). "Private Security Companies and Dilemmas for Security." Journal of Contemporary African Studies 25 (3): 391-416.

Mueller, S. D. (2008). "The Political Economy of Kenya's Crisis." Journal of Eastern African Studies 2 (2): 185-210.

Murunga, R. G. (2005). "Conflict in Somalia and Crime in Kenya: Understanding the Trans-Territoriality of Crime." African and Asian Studies 4 (1-2):137-61.

Mwalimu (n1 above); '2014 UNHCR country operations profile - Kenya' (UNHCR, the UN Refugee Agency, 2014) <http://www.unhcr.org/pages/49e483a16.html#.%28> accessed 8 April 2015.

Mwenda, A. (2005). A Review of the Kenya Police Force Budget and its Effect on Crime Management. New Delhi: Matrix.

National Council for Law Reporting (2010). Constitution of Kenya 2010, The Attorney General and National Security Intelligence Service. Website retrieved August 2012.

National Council for Law Reporting (2012). National Intelligence Service Act 2012, The Attorney General, National Assembly. Website retrieved September 2014.

National Council for Law Reporting (2012). Prevention of Terrorism Act 2012. The Attorney General. Website retrieved September 2014.

Ndung'u, N. (2008). "Kenya: The December 2007 Election Crisis." Mediterranean Quarterly 1:111-121.

Omeje, 2008

Omeje, K. (2008). "The War on Terror and the Crisis of Postcoloniality in Africa". African Journal of International Affairs 11(2): 89-114.

Osumah, O. and Aghedo, I. (2010). "The Open Sore of a Nation: Corruption Complex and Internal Security in Nigeria." African Security 3: 127-47.

Prevention of Terrorism Act- in http://www.legisaltion.gov. uk.2005/2/section1/enacted

Quoted in The Observer, September 28, 2013

R v Commissioner of the Metropolis Police, UKHL12

Schmitt and Shanker, 2005.

Section 6 of the National Intelligence Service Act of 2012.

Shaughessy (2006); Prevention of Terrorism Act 2006 in http//.www.legislation.gov.uk.ukpga/2006/11/section/1/enacted?view=interweave.

Shinkman, 2013

Shinkman, 2015

Siegel, L. (2010). Criminology: The Core. Belmont: Wadsworth.

Soma, 2005; Patriot Act, 2001 section 203,206,311.

Spuy, E. and Rontsch, R. (2008). Police and Crime in Africa: A Brief Appraisal of Structures, Policies and Practices. Cape Town: Centre of Criminology.

Stevrou, A. (2002). Crime in Nairobi: Results of a Citywide Victim Survey. Nairobi: UN Habitat, Safer Cities Series 4.

Sunday Standard (2009). "Kenya's Most Guarded VIPs-Using Taxpayer's Money and Foreign Aid to Pay the Bill, Sunday Standard, 6/6/2009; http://africanpress.wordpress.com/2009/06/07/Kenya's-most-%20guarded-vips-using-tax-payers-money-and-%20foreign-aid-to-pay-the-bill/. Accessed March 29, 2011).

Supplement No. 38 of Kenya Gazette.

The 2011 International Narcotics Control Strategy Report (INCSR), Volume 2, Money Laundering and Financial Crimes: http://www.state.gov/j/inl/rls/nrcrpt/index.htm

The Association for Civil Rights in Israel (ACRI) http://cmiskp.echr.coe.int//tkp197/viewhbkm.asp?action=open&table=F69A27FD8FB86142BF01C1166DEA398649&key=24704&sessionId=26399324&skin=hudoc

The Australian Anti-Terrorism Act, 2005

The Kenya Communications Amendment Act of 2008.

The Kenya Constitution 2010 Chapter 14, part 1

The Kenya Constitution, 2010 Chapter 14 article 240

The Security (Amendment) Bill s 12.

The Universal Declaration of Human Rights

Torpey, J. (1998). "Coming and Going: On the State Monopolization of the Legitimate Means of Movement". Sociological Theory 16(3): 239-59.

Transparency International Kenya (2009). "The East African Bribery Index. http://www.tikenya.org/documents/EABIReport09.pdf (accessed October 20, 2010).

United Nations Development Program (UNDP). The Human Development Report. Accessed on May 15, 2012 at http:hdr.undp.org/en/reportd/global/hdr1994/chapters

US Department of Defense reference no.2004-04-30; accessed on 26.8.2014.

US Department of State (2011). "International Narcotics Control Strategy Report Volume II: Money Laundering and Financial Crimes." Bureau for International Narcotics and Law Enforcement Affairs, March 2011, http://photos.state.gov/libraries/mauritius/320773/PDF_documents/incsr_2011.pdf (accessed April 7, 2011).

US Department of State, "International Narcotics Control Strategy Report Volume II: Money Laundering and Financial Crimes," (Bureau for International Narcotics and Law Enforcement Affairs, Marh2011.

Casting the Bad Omen: Preventing Electoral Violence in Kenya

Joseph Kioi Mbugua

Abstract

Electoral violence is a major draw-back to democratization, state stability and development in Africa. Electoral violence has been a defining footprint of elections especially since the second introduction of multi-party politics in Kenya in 1991. This study highlights the historical, socio-economic and political dynamics of this subject. The paper examines attempts to address the challenge of electoral violence in Kenya by various actors and the current state of affairs. Kenya is not out of the woods yet with regard to electoral violence and as the country prepares for the 2017 elections, the necessary political, legal and socio-economic changes have to be put in place in order to prevent recurrence of this major obstacle to national cohesion and integration in the country.

Key Words: Electoral violence, democracy, elections, institutions, conflict prevention

Introduction

The end of the Cold War provided political space for change in Africa from authoritarian one-party regimes to multi-party systems due mainly to lack of international support for dictators and increasing economic hardships occasioned by reduced foreign aid and the World Bank's Structural Adjustment Programs (SAPs) (Bratton and Van de Wall, 1992). This global wind of change provided an opportunity for opposition groups to agitate for pluralism and competitive politics. By the end of 2000, the number of countries holding multi-party elections had quadrupled compared to the Cold War era (Van de Wall, 2002).

Despite this democratic advancement, 80% of the incumbent presidents retained their seats and about two-thirds of the elections were considered not free and fair. As most African leaders had opened political space due to international pressure, they devised ways of manipulating plural elections to hold on to power. Some of these strategies were electoral manipulation, intimidation, fraud and electoral violence (Staffan, 2007). Electoral violence became a viable tool for incumbents and opposition alike to influence electoral outcomes to their advantage.

Since independence in 1963, the history of ethnic-based political violence in Kenya is manifested not only in electoral violence and bad governance but also in the evolution of organized political competition. Like many other African countries, Kenya preferred the one-party system soon after independence ostensibly to unite the different ethnic groups against the most challenging problems of the day such as underdevelopment. Although the country entered independence with two main parties (Kenya African National Union (KANU) and Kenya African Democratic Union (KADU)), KADU was dissolved to join KANU in 1964. Despite agitation for political pluralism from 1966 onwards, the country remained traditionally a one-party state and later enacted a legal provision barring multi-parties in 1978, a situation that lasted until 1991 after much domestic and international pressure (KNCHR, 2008).

Since the advent of pluralism in Kenya, the elections of 1992, 1997 and 2007 were engulfed by significant levels of violence. Many political parties emerged to contest the 1992 general elections but they were mostly based on ethnic groups, thereby dividing their votes and enabling the incumbent to win elections in 1992 and 1997 through a narrow majority, amidst allegations of irregularities and electoral violence (Kiliku Report, 1993; Akiwumi Report, 1999). The violence occurred before elections and was mostly located in the then Rift Valley and Western provinces. The violence was said to have been orchestrated by state-sponsored militias (Throup, 2003; HRW, 1993; KHRC, 1998). The existing poor relations among ethnic groups based on perceptions of indigenous versus migrant rights to land, were exploited for political purposes, (Cheeseman, 2009).

The study is organized in three parts. Part one introduces the research aims, the problem and hypothesis. Part two examines the literature on ethnic conflicts, electoral conflicts, conflict management and conceptual framework, while part three analyzes the causes and dynamics of electoral violence in Kenya and explores sustainable conflict management options. Part four provides the conclusions and recommendations for an electoral violence-free polity. The study adds value to the literature on electoral violence by offering a combination of interlocking factors that are most likely to cause or prevent electoral violence in Kenya.

The Problem

Kenya is still vulnerable to electoral violence since the root causes of the problem have not been adequately addressed. Though the causes and dynamics of the conflict have been fairly studied and understood by policy makers, there are still macro and micro socio-political and economic factors that militate against progressive march towards a democratic, stable and peaceful polity.

Illegitimate and violence-prone elections can plunge the country into instability and uncertainty amidst dwindling prospects of economic growth. Between 1991 and 2001, more than 400,000 people were killed and about 600,000 displaced in political violence (KHRC, 2001). The 2007/8 electoral violence caused immense political and economic loss to the country. More than 1,000 people were killed, 300,000 displaced and the country incurred an economic loss of Ksh. 100 Billion (CIPEV, 2008). Not only was the veneer of a stable country shattered but there was also loss of lives and economic turmoil through destruction of property, displacement and blockage of international transportation and trade routes.

Elections are fundamental ingredients of democratic governance by enabling broad participation and according legitimacy to the rulers (Bratton, 2003). Violence undermines both the legitimacy of the electoral process and the government that assumes power. Free and fair elections help countries achieve democratic consolidation and improved economic development. Given the strategic location of the country in the Eastern African commercial, transport and security network, the costs of political violence and instability are high and far reaching.

Hypothesis

Electoral violence in Kenya will continue to be a major feature in every electoral cycle as long as there is no accountability for past political/electoral violence.

Theoretical Framework

This section discusses three theoretical perspectives that may be used to analyze democracy and election-related political violence. These are relative deprivation, constructivism and institutionalism.

Relative Deprivation

Relative deprivation refers to a group's feeling of exclusion in relation to other social groups.

Such feelings become legitimate when the desires of some groups are blocked by society. Relative deprivation specifically refers to the discrepancy between what people think they deserve and what they actually get or think they can get (Gurr, 1970). Group violence will therefore depend on the intensity and scope of relative deprivation. The occurrence of violence will also be dependent on other factors such as nature of society, culture, legitimacy of leadership, viability of violence as a solution to the problem, and the prevailing economic and political environment (Gurr, 1970). Given the nature of inequality in Kenya, this theory can be used to explain some of the causes of electoral violence.

Constructivism

The theory of constructivism holds that the attributes or values of ethnic groups are not fixed but multiple, fluid and can change based on internal or external factors (Chandra, 2012). Constructivism reinforces the rational choice theory by making a cost-benefit analysis or calculations for best options. Identities are also in flux, shifting and constructed over time. This theory combines some of the arguments of the primordial theory of ethnicity and instrumentalism. The theory contributes to understanding ethnicity and conflict by explaining why groups behave in certain ways and how groups can be manipulated to achieve rational political or economic ends (Young, 2002). The theory combines aspects of fixed descent based on attributes of ethnic groups with non-descent ones (Chandra and Boulet, 2012).

Ethnic groups are mobilized as political instruments to achieve specific goals such as political or economic power (Berman, 1998). Political elites who may enjoy mythical or religiously advantageous positions in their communities are able to draw fanatical following based on perceived pursuit of group interests. This form of mobilization depends on the nature of politics in a particular country, electoral system, strategic significance of an ethnic vote, and historical experiences and grievances, Carment, (1993). Electoral violence can be used to stake claim at the electoral outcome, especially where elections are hotly contested and it is a winner-take-all electoral system (Cleven, 2013b). Though ethnic identity and shared values provide ground for mobilization, ethnic cohesion does not necessarily lead to hatred towards other groups. To the contrary, ethnic group leaders and political parties shift their alliances regularly (especially in Kenya) to where their interests can be served best at a particular time. Ethnic mobilization, however, is not the cause of ethnic or electoral violence but it can provide a powerful base for executing violence, where the latter is perceived as a viable/alternative means of seeking political power.

Institutional Theory

The electoral institutional theory holds that institutions determine the strategies, choices and political behavior in electoral politics (Mozaffar, 2003; Brancati and Snyder, 2011; Norris, 2013). Institutions here refer to the legal regime, separation of powers, impartial and professional security sector, independent judiciary that can arbitrate in electoral disputes and election management bodies that enjoy high levels of integrity and legitimacy (Norris, 2013). The Kenyan political institutional system can be described as an institutional model that can enhance peaceful elections through transparent and accountable processes or cause insecurity through electoral malpractices. Through the institutional theory, one can examine the structures, values, interests, legitimacy and relationship of political actors. A combination of this and the above two theories may help explain and fairly predict the likelihood of electoral violence in Kenya. Institutions can be well-engineered to prevent a combination of the potent factors that can ignite electoral violence in future elections.

Conceptual Framework

Figure 1: Relationship between Electoral Violence, Impunity, Accountability and Peace and Stability

The above diagram indicates positive and negative consequences that result from addressing or neglecting to act against electoral violence. Countries where democracy/rule of law is well entrenched, will not experience electoral violence while in countries where there is impunity and lack of accountability to the citizens, electoral violence will most likely happen.

Literature Review

An analysis of the literature on electoral violence reveals the reasons why it occurs, its nature or manifestations, dynamics and prevention strategies. Electoral violence in Africa increased by 50% from 1990 to 2006, compared to 1945 to 1989 (Hyde and Marinov, 2012). Electoral violence happens in 19-25% of elections in Africa (Bekoe, 2010). Ethnic conflicts are caused by decline in the capacity of mediating institutions such as Electoral Management Bodies (EMBs), weak security sector, non-ideological political parties and lack of credible pre-existing commitments across groups (Bardhan, 1997). Political institutional failures have played a big role in the previous Burundi, Rwanda, Liberia, Sierra Leone, Somalia and Zimbabwe conflicts. The winner-take-all ethnically-based electoral competition increases instability through erosion of inter-communal trust, limitation of inclusion and further alienation of 'losing communities' from government (Bardhan, 1997). Elections in such contexts may lead

to dysfunctional legacies of violence and uncertainty (Collier et al, 2010).

Electoral violence is meant to achieve a desired political outcome (Hoglund, 2009; FES, 2001). Political parties in Africa are not based on ideology or policies but ethnic cleavage (Reilly, 2008; Hoglund, 2009). Electoral violence is perpetuated by a culture of violence and impunity, partly due to weak institutions and hotly contested elections (Hoglund, 2009). Electoral institutions can cause violence if they are not professional, efficient, transparent, impartial or independent (Reilly, 2002; Norris, 2013; Hoglund, 2008). Electoral malpractices such as denial of registration of voters, false vote tallying and reporting, fraud, vote-buying, intimidation, threats, and coercion can also cause violence. Electoral violence is also associated with weak states such as Kenya (McBride et al, 2011) where the state can neither prevent violence nor punish the culprits. Violence is also associated with ethnic grievances and political fractionalization (Reilly, 2002).

Some case studies indicate that elections can be a hindrance to peacebuilding and can cause violence (Reilly, 2002; Collier, 2009). Where the rules of the game are not respected by political parties, there is a tendency to use violence to influence outcomes (Machado et al, 2011; Collier and Vincente, 2012). Political parties formed on distinct social markers such as ethnicity or religion can cause conflict (Chandler, 2001; Reilly, 2002).

The prevailing electoral system can be a cause of conflict (Norris, 2013). The first-past-the-post system (FPTP) creates winners and losers and does not accord power in proportion to the votes garnered. Given the significance of the state in allocation of resources, a large section of society may feel excluded. Electoral violence mostly occurs in countries that are rated partly free or not free (79%), (Freedom House, 2002). Many countries in Africa fall into this category. This survey also indicated that voter initiated violence occurred in 14%

of the cases and state motivated violence also occurred in 14% of the cases.

Violence is more prevalent where elections are perceived not to be free and fair. An Afrobarometer study indicated that vote buying is more effective than violence in Nigeria (Bratton, 2008). The culture of impunity has also been identified as a factor determining electoral violence (Bekoe, 2011). Incumbent regimes can use state resources to suppress opposition parties including assassinations (Suberu, 2007). Most studies on electoral violence in Africa are descriptive rather than analytical (Fischer, 2002; Bekoe, 2012). This study attempts to apply global observations of electoral violence patterns to the Kenyan case.

Background to Political/Electoral Violence in Kenya

Kenya was a British colony since 1895 and became independent in 1963 through a bitter struggle. The colonial state raised the significance of land as a contested resource whereby European settlers occupied prime lands largely in the Central and Rift Valley provinces and christened them 'White Highlands' (Kanyinga, 2009). The land was forcefully alienated from the natives and some of them migrated to work on the white-owned farms. Due to internal resistance to colonial rule, ethnic groups were not encouraged to unite and were often placed under different provincial administrators (Leys, 1975; Haugerund, 1995). Formation of national political parties was prohibited and regional associations were encouraged (Kaverenge, 2008). This would reinforce ethnic differences with respect to political violence after independence.

KANU was formed in Kiambu in March 1960 while KADU was formed in Ngong in June 1960), (Kaverenge, 2008). During Jomo Kenyatta's reign, KANU was predominantly Kikuyu, Embu, Meru, Luo and Kamba ethnic groups which made up 53% of the population. It was led by Kenyatta, a Kikuyu, who became

Prime Minister in 1962 and President in 1964. The KADU opposition minority party was dominated by the Miji Kenda, Kalenjin, Luhya and Maasai and was led by Ronald Ngala (a Miji Kenda) and Daniel Moi (a Tugen Kalenjin).

Kenya experienced ethnic conflicts during the KANU-KADU period (1960-64). Conflict erupted in Ngong in 1961 during a political rally organized by John Keen, then leader of the KADU- affiliated Maasai United Front (MUF). Another conflict occurred in Kericho in 1962 and Narok in 1967 (Akiwumi Report, 1999). These conflicts were fueled by zoning of territory/ land based on ethnic identity to the exclusion of others as advocated by KADU's *majimbo* or devolution-guided federalist ideology.

The Kenya state grew progressively weak due to Moi's narrow political support base, calls for liberal democracy in the 1990s and declining economic performance amidst economic conditions imposed by the Bretton Woods institutions (Barkan, 2011). The pattern and dynamic of electoral violence in Kenya is informed by several varied local factors. Violence in Mt. Elgon was informed by local land-based clan conflicts (2005-2007). In Kisumu (2007), it took the face of demonstrating masses against police. In Nairobi slums, it assumed ethnic militia by the name *Mungiki* (Kikuyu) versus Taliban/Baghdad Boys (Luo) and in the Rift Valley it pitted the Kikuyu versus the Kalenjin with subterranean land and settlement grievances (Boone, 2009; Lonsdale, 2008).

The Kenyan state also progressively lost monopoly over the legitimate use of force through emergence of militias who existed even outside the control of politicians and proliferation of illicit arms. Lack of a credible and independent judiciary or security institutions also informs electoral violence dynamics (Mueller, 2008). As the implementation of devolved governments continues, inter-communal violence has continued in Moyale, Lamu, Turkana,

Samburu, and Narok and might have a bearing on electoral politics (Abdullahi, 2013).

Defining Electoral Violence

Electoral conflict or violence is defined as' *'any random or organized act that seeks to determine, delay or otherwise influence an electoral process through threat, verbal intimidation, hate speech, disinformation, physical assault, forced 'protection', blackmail, destruction of property, or assassination'* (Fischer, 2002). Political violence also occurs within and between political parties though political leaders may not have absolute control over the perpetrators (Hoglund, 2010).

Election Security

Election security is *'the process of protecting electoral stakeholders such as voters, candidates, poll workers, media and observers; electoral information such as vote results, registration data, and campaign material; electoral facilities such as polling stations and counting centers; and electoral events such as campaign rallies, against death, damage or disruption'* (Fischer, 2002).

The key participants in electoral security are EMBs, security forces, political parties, media, civil society organizations and judicial officials. Electoral violence can occur during registration when groups are denied registration for various reasons including discrimination, denial of citizenship or for lacking essential identity documents. During campaigns, groups can be denied access to certain areas or their rallies can be disrupted. During balloting, groups can engage in conflict due to allegations of misconduct or deliberate action to disrupt the electoral process (Fischer, 2002).

A Political Economy of Electoral Violence in Kenya

There are a number of political economy factors that may explain electoral violence in Kenya. Historical or communal grievances, relative deprivation, normalization of violence/impunity, lack of elite consensus on the 'rules of the game', level of democratic institutionalization, type of electoral system, ethnic/clan/religious based political parties, demographic pattern, fractionalization and dispersal (CIPEV, 2008; IREC, 2008; ICG, 2008; Kimenyi and Ndung'u, 2005).

Land-based Grievances and Conflicts

Land has been a major source of conflict due to a number of factors: scarcity of arable land since two-thirds of Kenya's land is arid or semi-arid. The population of Kenya has increased from 8.1 million at independence to more than 40 million today (KNBS, 2009). Communities tend to have religious attachment to their ancestral/cultural lands. Politicians use land for patronage during elections. There have also been irregular/illegal allocations of land, dispossession and grabbing of public and community land (Ndung'u Commission Report, 2004).

Politicization of land and settlements in the Rift Valley including past unresolved land grievances, have often been used as a pretext for ethnic political mobilization and cleansing, mostly pitting the Kalenjin against perceived migrants such as Kikuyu and Kisii and to a lower extent the Maasai against Kikuyu, Kalenjin and Kisii migrants (Oucho, 2008).

Settlement of communities outside their areas of origin became a major source of conflict in the Rift Valley and Coast Provinces since the advent of multi-party politics in 1992 (Oucho, 2008). Existing grievances on land are manipulated during electoral competition to form potent fodder for violence. Violence was unleashed to force specific voters to abandon the areas in which they were registered as voters which effectively nullified their votes because according to the electoral rules, people have to vote in the areas in which they were registered (Kiliku Report, 1993; Akiwumi Commission Report, 1999).

Relative Deprivation/poverty, Social and Economic Marginalization

Statistics indicate that Kenya has high levels of inequality and is ranked 103rd out of 169 countries, making it the 66th most unequal country in the world (KNBS, 2013; SID, 2010). Poverty, unemployment, and perceived exclusion from political and economic space make groups vulnerable to manipulation for political gain. They perceive their poor conditions as caused by their neighbors' wellbeing and politicians aggravate such narratives (Lonsdale, 2004).

Census in Kenya is politicized due to its significant implications for political power. The high number of youth in the population, a significant proportion of which is marginalized and high rate of unemployment (2 million in 2008), was cited as a catalyst of electoral violence (CIPEV, 2008). More than half of the population is below 19 years old and is open to political manipulation in urban areas (Kenya's urban population is 22% of the total) (Barkan, 2011). There was also political patronage and nepotism in access to lucrative civil service positions (SID, 2010). Inequality in regional development means ethnic inequality and this has informed underlying grievances during elections (SID, 2010; UNDP, 2001).

Urban centers also attract poor people in search of jobs and livelihoods and more than 60% end up living in slums (semi-permanent structures) where they can afford. This population, which also bears ethnic identity, is often vulnerable to political violence both as perpetrators and victims.

Ethnic-based Political Mobilization

Kenya has more than 40 ethnic groups with 5 of them (Kikuyu, Luhya, Kalenjin, Luo and Kamba) comprising two thirds of the population (KNBS, 2009). This means that coalition patterns among these groups determine national electoral outcome especially with the support of smaller constituencies across the country. Political parties based on ethnic fiefdoms are used as legitimate anchors of the struggle for access and control of government power (Barkan, 2011; Stiftung, 2010). Electoral violence at the national level has previously involved the five dominant groups. Ethnic-based political mobilization is the norm in Kenyan politics (Barkan, 2013). Alongside the relative size of the principal ethnic groups, which often build shifting alliances to capture political power, lies glaring economic inequality. From this perspective, some ethnic groups especially the Kikuyu are perceived to be relatively well-off compared to others and this to a large extent informs political mobilization (Barkan, 2011).

Due to the colonial legacy, there are coterminous ethnic-cum administrative boundaries in Kenya. Most ethnic groups occupy defined constituencies, districts, provinces and counties (Oucho, 2008). Migration therefore alters the political power balance which may cause grievances among the local residents.

Nascent Democratic System and Institutional Framework

Kenya, like other African countries, engaged in democratization through domestic political pressure and foreign influence to prevent conflict and accelerate development. However, elections have become one of the most divisive political activities leading to civil wars and violence in the recent past (Dercon and Gutierrez-Romero, 2012). The imperial constitution that ushered the country's independence granted disproportionate powers to the executive at the expense of individual liberties, the legislature and judiciary. The end of the short-lived multi-party system in 1964 and banning of the Kenya Peoples Union (KPU) in 1969 further shrunk the democratic space during Jomo Kenyatta's era (1963-78). This situation would be retained under Daniel Arap Moi's administration (1978-2002) (Oucho, 2008; Barkan, 2011; Kanyinga, 2009).

The presidency relied on a well-oiled provincial administrative system that could determine electoral outcomes. This system also ushered in economic inequality since it did not have effective checks on distribution of resources such that areas that supported the ruling regime witnessed more development than opposition zones (Oucho, 2008). Political competition to acquire or retain the presidency and/or government is therefore stiff due to perceived loss or gain (Dercon, Stefan and Gutierrez-Romero, 2012).

Perceived non-independence of electoral commissions, security forces and provincial administration in previous elections was also a cause for concern. Before 2007, the president had power to appoint election commissioners without consulting political parties. In democratic systems, the constitution allocates power and determines how much of it the winners and losers will exercise. The ability to manage ethnic conflicts largely depends on the nature of the executive, the type of electoral system and the distribution of power between the central government and devolved units (Saideman et al, 2002). Scholars argue that presidential systems are better at addressing ethnic security or fears than parliamentary systems due to checks and balances (Saideman et al, 2002).

Pluralist systems are more prone to ethnic violence than proportional representation. In the former, it is a winner-take-all while in the latter case all parties are guaranteed some level of power (Cohen, 1997; Lijphart, 1994). Conflicts will also be more present in poorer than richer countries where the state plays a significant role in distribution of scarce resources (Lipset, 1991). The more differentiated groups are in terms of physical attributes, socio-cultural values, political behavior, economic status and regional dispersal or concentration, the more the likelihood of conflict (Lipset, 1961; Gurr, 1967; Horowitz, 2002). High stakes and stiff competition may drive parties to resort to unconventional means to win elections especially in pluralist electoral systems.

Impunity

The culture of political or communal violence has existed in pre-colonial, colonial and post-colonial Kenya. The *raison d'eter* of this violence was an attempt to force conformity or subservience among renegade groups. Due to the then global political environment, political violence was a viable option since there was not much international moral responsibility demanded of heads of state. Legitimization of political violence through impunity for past crimes, politicization of crimes to undermine rule of law, weak mediating institutions such as EMBs, weak judiciary, partisan security sector, centralization of power on the executive and winner-take-all electoral system can combine to create conducive conditions for electoral violence. Due to a close correlation between political violence and political power in Kenya, there has not been adequate redress of injustice wrought by political/electoral violence.

If the relative cost of engaging in violence is lower than losing an election, the former will be used (Hoglund, 2009). Electoral violence in Kenya during the 1992 and 1997 general elections occurred before the elections and was orchestrated by the state for fear of losing in the new multi-party democratic era (HRW, 1993; KHRC, 1998; Klopp, 2001; Mueller, 2011).

Between 1961 and 2008, few arrests and subsequent judicial processes have been implemented (HRW, 2008; CIPEV, 2008; Akiwumi, 1993; Kiliku, 1999). Victims continue to bear a heavy price for their perceived ethnic political affiliation while political leaders accused of fomenting ethnic strife continue to enjoy political space (KHRC, 2011).

At the political party level, some nominations were marred by violence but which appeared tolerable in the Kenyan political culture. Extra-judicial killing of members of militias such as Mungiki were tolerated before 2007 by many groups including politicians and the media and

only human rights organizations came to their defense (KNCHR, 2007). Around December 2007, there was violence in several locations (killing about 70 people) where politicians were involved. The Electoral Commission of Kenya (ECK) however did not disqualify such candidates from participating in elections (Cheeseman, 2008). This justifies violence not sanctioned by judiciary as a legitimate course of redress.

In total, about 600 people were killed before the 2007 elections, a number that was significantly downplayed by the media and the public, signifying normalization of violence in Kenya's political culture (Cheeseman, 2008). The culture of political violence even within parties is part of accepted behavior among the public in Kenya (Anderson and Lochery, 2008). Members of the political class bend rules and institutions to favour them or act in complete disregard of the law with impunity (Mueller, 2014).

Secondary Causes of Electoral Violence

Weak Class or Ideology-based Political Parties

In Kenya, political parties are more of vehicles for channeling ethnic votes than peddlers of development ideologies. This informs the numerous shifting political party alliances witnessed in Kenya since independence (Kaverenge, 2008). However, there is a general ideological dividing line based on resources and power grievances first defined by the KANU-KADU political divide. KANU stood for strong centralized unitary government and free settlement of citizens beyond their native regions while KADU stood for devolved government principally to protect minorities and land in their home territories (Kanyinga and Boone, 2009; Kaverenge, 2008).

In the then cold war global political divide, Jomo Kenyatta's KANU stood for 'baking the cake' (Capitalism) while Jaramogi's Kenya Peoples Union (KPU) stood for 'distributing the cake' (social democracy/egalitarianism). This ideological division can be seen in 2007 through Kibaki's/PNU's conservative motto of 'Kazi iendelee' (work continues - conservative/ status quo policy) against Raila Odinga's/ ODM's 'Kazi ianze sasa' (work begins now- social democracy/egalitarianism/radical change paradigm captured in the ODM Manifesto (2013-2017), titled *Deepening Reforms for Equity and Social Justice*. Lack of well-entrenched trans-ethnic ideological or class-based politics therefore raises the significance of ethnic polarization and probability of electoral violence.

Organized Armed Groups and Ethnic-based Militias

Due to legitimization of political violence in Kenya's history, there have emerged several ethnic- based organized armed groups that play a key role in perpetuating electoral violence. Some of these groups include: Mombasa Republican Council (MRC), Sabaot Land Defence Forces (SLDF), Mungiki, Kalenjin Warriors, Chinkororo, Angola Msumbiji, Jeshi La Mzee, Baghdad Boys and Taliban (Kagwanja, 2003; Cheeseman, 2009; Ngunyi and Katumanga, 2014). Organized armed groups orchestrate violence as a strategy of pre-determining electoral outcomes. Violence is also accelerated by informalization of the state which leads to diffusion of violence beyond state control and establishment of politically-connected militias (Kagwanja, 2003; Cheeseman, 2008).

Informal state-sponsored violence wreaked havoc on the national economy between 1991 and 2000 leading to sharp decline in the tourism industry especially at the coast, and disruption of health and education services in some areas as professionals fled from the violence. There were also reports of gender-based violence and an estimated economic loss of about $10 billion (Kiliku, 1993; Akiwumi, 1999; KHRC, 2008).

The violence created a crisis of legitimacy for government institutions especially in opposition areas. Restoring state legitimacy through political settlement was therefore a crucial role of the new dispensation.

Triggers

There are immediate occurrences that can ignite or trigger electoral violence based on existing political grievances and the prevailing global political environment.

Electoral Malpractices

Electoral malpractices, cancellation of elections, assassination of candidates and availability of organized armed groups are ideal triggers of electoral violence in Kenya. Electoral manipulation may involve vote-buying, intimidation, electoral violence, stuffing ballot boxes, tampering with vote tallies and ballot stealing (Bratton, 2008; ICG, 2008). Relatively equal numerical strength among coalitions based on ethnic arithmetic may result in marginal differences. Complex electoral administration due to an enlarged national assembly and devolved governments may affect electoral integrity (Barkan, 2013). Perceptions of a weak and biased IEBC constitute a cause of grave concern. Ethnic power dynamics within counties will also influence the occurrence of electoral violence in future.

Biased Opinion Polls

Opinion polls can also play a role by showing that a certain candidate is ahead by a significant majority, which, if disproved by real outcomes at the ballot box, can cause disappointment, outrage, disaffection and violence (Cheeseman, 2008). Where polls are not scientifically carried out or objectively reported, they can cause political instability. Opinion polls can exercise particular influence on the outcome of elections and can also be quite distorting especially when they are re-produced in newspapers as objective news (McQuail, 2005, quoted in Ndeti et al, 2014).

Misinformation and Propaganda

Politics in a given context may involve misrepresentation of facts, ethnic prejudice, exaggeration or slander. This may be done through the media (especially vernacular radio stations), SMS and social media (KNCHR, 2008; ICG, 2012).

Why the 1992 Elections were Violent

Kenya's second electoral violence began after the introduction of multi-parties in 1991 and it was mostly confined to the Rift Valley province. The state-sponsored violence was partly used to fulfill the "prophecy" that pluralism would bring chaos and more importantly influence electoral outcomes. Due to Moi's strong control of the security forces and lack of a post- independence armed resistance against the state, the latter temporarily enjoyed the monopoly of violence, (Ngunyi and Katumanga, 2014).

The violence pitted 'indigenous' – Kalenjin and Maasai against 'non-indigenous' people – Kikuyu, Kisii, Luo and Luhya. By 1993, the violence had led to the death of 1,500 people and displacement of 300,000 (HRW, 1993). Though presented as land or ethnic clashes, the violence was strategically executed by the state to influence the electoral outcome of 1992 (Kiliku Report, 1993; HRW, 1993; NCCK, 1992). A number of measures were used to ensure KANU'S victory: gerrymandering, voter registration irregularities, ballot staffing, fraud in tallying and vote-buying (Brown, 2001; Maupeu, 2007; Throup and Hornsby, 1998).

Why the 1997 Elections were Violent

Due to fragmentation of the opposition parties (Democratic Party (DP), Ford Asili, Ford Kenya, National Democratic Party (NDP) and previous success of electoral manipulation in 1992, it was still viable to use violence in shaping the outcome of elections. In the 1997

elections, there was violence in Bungoma/Trans Nzoia, Marakwet/Pokot and the Coast province (Akiwumi, 1999). The level of violence in 1997 was lower than in 1992. About 50 people were killed during demonstrations between June and August 1997.

Pre-election violence also occurred in Kwale-Likoni area in the Coast province. This violence was aimed at non-indigenous 'up-country' people. About 100 people were killed and 200,000 displaced (Maupeu, 2007). Members of the opposition in the Rift Valley were also targeted due to their electoral choices. Though KANU won the elections, they were marred by irregularities.

The 2007 Post-Election Violence

Violence in several areas of the country was triggered by the announcement on 30 December 2007 by the Electoral Commission of Kenya (ECK) that President Mwai Kibaki had won a second term. Though the election was dubbed too close to call, there were allegations of electoral malpractices in the Party of National Unity (PNU) and Orange Democratic Movement (ODM) strongholds (ICG, 2008, CIPEV, 2008). The 2007/8 electoral violence was the worst in Kenya since independence: 1, 133 people were killed and over 600,000 displaced (CIPEV, 2008). The violence pitted supporters of ODM against those of the ruling PNU. The violence also assumed ethnic fault-lines in tandem with Kenya's political mobilization pattern (CIPEV, 2008; ICG, 2008; KNCHR, 2008).

Ethnicity was a key campaign tool in 2007 and the Opposition cast the Kikuyu as beneficiaries of government resources at the expense of other communities (CIPEV, 2008; Barkan, 2011, Abdullahi, 2013). The *Majimbo* debate elicited strong anti-Kikuyu sentiments which contributed to their being targeted for expulsion from the Rift Valley and Coast provinces (CIPEV, 2008). Due to perceived government control of judiciary, ODM did not seek redress in court and called for mass action to force

government to annul elections but this resulted in looting, property destruction and killing (Abdullahi, 2013; ICG, 2008; KNCHR, 2008). Hate speech proliferated due to past impunity. The Government was unable to protect citizens due to institutional weaknesses.

Local and international observers such as the European Union, Commonwealth Secretariat, East African Community and the International Republican Institute noted that while the voting and counting of ballots at polling stations were fair with minor exceptions, the tallying and compiling of the results dramatically undermined the electoral outcome (KEDOF, 2007).

Biased opinion polls may have contributed to the violence through favouring one candidate in a hotly contested election; which, when disproved by real outcomes at the ballot box, could have caused disappointment, outrage and disaffection (Cheeseman, 2008; Ndeti et al, 2014). Electoral violence, which appeared spontaneous, thrived in vulnerable regions where there were grievances on access to land and jobs such as the tea-growing regions of Kericho and Bomet, the Borabu-Sotik border, Thika and Limuru, and in the urban slums. There were accusations of media incitement by KASS FM (Kalenjin), Inooro, Coro and Kameme (Kikuyu) (ICG, 2008; KNCHR, 2008). This post-election violence marked the peak of institutionalization of violence in Kenya since 1991. There was re-activation of rearguard ethnic militias encouraged by past impunity to prosecute the perpetrators of political violence.

Why the 2002 Elections Were Generally Peaceful

In the 2002 elections, due to a combination of political dynamics such as the end of two terms limit for incumbent president Moi, having two top political contenders (Kibaki and Uhuru), from the same ethnic group (Kikuyu), supported by other ethnic groups; Uhuru largely by Kalenjin and Kibaki by Luo among others made the 2002 the most free, fair

and peaceful elections since the introduction of multi-parties in 1991. Given the primacy of ethnic political competition, the drivers of ethnic-based electoral violence had been effectively activated though not by design but by the political calculations of the emergent coalition of the main national political players.

President Moi had made a commitment to retire due to a combination of factors: the demands of the constitution, the political climate of the time, a re-energized opposition, vibrant civil society, enlightened and politicized citizenry, assertive media and committed international community. Another salient reason is that the incumbent was not a significantly interested party in the race and he had no personal fear of political persecution under Mwai Kibaki in case Uhuru Kenyatta lost. Kibaki was a man who had served Moi well as the latter's Vice President and whose public demeanour and gentlemanly mien was well established in Kenya's political space (Weekly Review, 1988). This was proved right when Moi was later granted immunity (Throup, 2003).

By opting for Uhuru Kenyatta as his preferred successor under Jomo Kenyatta's KANU, Moi had closed his long political career and indelible mark on Kenya's political landscape with remarkable appreciation of his mentor and predecessor, Mzee Jomo Kenyatta (in the spirit of following in his *Nyayo* or footsteps). With the ghost of past ethnic clashes in the Rift Valley largely obliterated by Kibaki's ascent to power, Moi appeared to legitimize the role of dynastic politics and hoped that his preferred son and Rift Valley political heir, Gideon Moi, would deputize Uhuru and thereby assume the reigns after the end of the latter's term. Though this strategy did not work at the time, its influence on Kenya's politics remains significant to this day.

Were the 2013 Elections Peaceful?

Though the 2013 elections were peaceful at the national level, there were a number of localized conflicts. In 2012, land conflict between the Orma and Pokomo killed more than 100 people (Abdullahi, 2013). Poor police performance in Lamu's intercommunal violence of 2013, where early warning was not heeded to, led to killings and displacement of 34,417 people (Abdullahi, 2013).

The key candidates in the presidential race, Uhuru Kenyatta and Raila Odinga, called for peace and accepted to go to court to challenge electoral outcome rather than engage in mass action. Communities that were most affected as both perpetrators and victims (Kikuyu and Kalenjin) joined together in one political party alliance (Jubilee) largely because of the ICC cases that indicted candidates from both sides of the 2007 PEV (Lynch, 2014; USIP, 2014). The two personalities, Uhuru Kenyatta of The National Alliance (TNA) and William Ruto (United Republican Party (URP) were both political products of the Moi/KANU tradition and therefore shared a conservative ideological inclination. There was also a politically-influenced public willingness to pursue reconciliation between the Kalenjin and Kikuyu rather than opting for retributive justice that may not have brought about long term peace. The prevailing psychological mood occasioned by the international community's concern about Kenya's 'unforeseen' rapture and the Kenya National Dialogue and Reconciliation (KNDR) Accord reforms, together with fear of the possibility of being arraigned at the ICC, militated against any justification and legitimacy for electoral violence.

In 2013, there was more security sector preparedness than in 2007. The Kenya National Intelligence Service identified 27 out of 47 counties vulnerable to electoral violence in 2013, (Abdullahi, 2013). There were 45,000 polling stations each with 2 police officers and other forces such as Kenya Wildlife Service (KWS) and General Service Unit (GSU) were brought in to re-inforce the police in hot spots. The government warned against hate speech and there was troop deployment, peace messaging and an active national cohesion and integration

commission and media cooperation on election reporting rules. There were also fairly credible reforms of the Judiciary.

The 2010 constitution introduced reforms such as removing the power to appoint election officials from the Office of the President; decentralizing executive power, devolving government, and establishing an independent IEBC. These, among others, improved minority rights and provided a favorable environment for peaceful elections (USIP, 2014).

The election was Kenya's most complex as voters simultaneously cast ballots for six county and national offices i.e. President, Governors, Members of County Assembly (MCA), Members of parliament, Senators, Women representatives. There were intercommunal calls for peace irrespective of the electoral outcomes. County peacebuilding improved through creation of a National Steering Committee (NSC), National Cohesion and Integration Commission (NCIC) District Peace Committees (DPCs) and Peace Forums (in the Rift Valley, Coast and Eastern Provinces). The work of NCIC sent clear signals against hate speech and impunity, though there were no successful prosecutions. There was more community capacity building and early warning initiatives through the NSC's Conflict Early Warning and Early Response Unit (CEWERU), and reconciliation and mediation were also done by civil society under the PEACENET umbrella supported by UNDP (Abdullahi, 2013). Due to this confluence of factors, peace prevailed but this does not guarantee peace in future elections.

Prospects for Peace in 2017 Elections and Beyond

The New Constitution of Kenya 2010

The promulgation of the new constitution in 2010 was a fundamental achievement for Kenyans after struggling for 20 years to entrench the rule of law. The new constitution is the strongest pillar of reforms and democratic consolidation as it seeks to neutralize the major causes of instability. It has addressed impunity of government organs through creation of accountability mechanisms. It dilutes the influence of the executive, boosts independence of the legislature, restores credibility of the judiciary and devolves more power to the local level. The document has increased the powers of independent commissions, protects civil liberties and spread the centers of power through devolution (Sihanya, 2013; Barkan, 2011). There are 47 devolved governments (one for each of 47 counties) and an independent commission that determines the revenue allocation formula for counties and takes 15% of the national budget (CRA, 2015). This is the Commission for Revenue Allocation (CRA) and is making a significant contribution to reducing inequality.

The constitution also restricts the presidency to two terms of five years each. In so doing, the constitution reduces incidences of personalized leadership by upholding the rule of law. The requirement for 50+1 in presidential elections was a significant electoral engineering of the constitution in addressing ethnic politics by raising the bar for election of president. This therefore increased the propensity for ethnic cooperation/alliance and streamlined recruitment into the public service by creating an independent Public Service Commission (PSC).

Most recommendations of the KNDR were incorporated in the constitution especially the structure of the security sector. However, it will take a long time before the fruits of the new system are deeply felt across the country, but currently the structure has changed the way politics is conducted and power exercised in the country. Unlike the 2007 elections, when the Opposition lost the elections, in 2013 they did not take to the streets but the Supreme Court to seek redress, signifying some confidence in the new constitutional order and legal dispensation.

The constitution (2010) placed the police under the ministry of the Interior to prevent politicization. Further reforms are still slowly taking place and training was increased to 15 months from the previous 6 months. Some controversial legislation concerning the judiciary and police has also been enacted. Proposed institutional reforms in the areas of security, judiciary, electoral commission and control of hate speech will to a large extent determine the occurrence of violence or lack of it. The prosecution for electoral violence has been slow.

Accountability for Electoral Violence

A number of attempts to make the perpetrators of electoral violence accountable and to deliver justice to the victims have been made by the government of Kenya and the international community. The success of those initiatives however is debatable.

The Kenya National Dialogue and Reconciliation Accord (KNDR)

The Kenya National Dialogue and Reconciliation (KNDR) Accord to reconcile PNU and ODM after the 2007/8 electoral violence was facilitated by Kofi Annan (former UN Secretary General) and a panel of other African eminent persons. It was an African Union (AU)-led mediation, supported by the UN, neighbouring countries, civil society and international community. It addressed weak institutions vulnerable to manipulation and impunity for past electoral violence and incitement (ICG, 2012).

This agreement once again set Kenya towards stability and democratic consolidation. A coalition government was formed on February 28, 2008 with Kibaki as President and Raila as Prime Minister. It provided a road-map for broad reforms including writing of a new constitution to address the root causes of the conflict (KNDR, 2008).

According to the Accord, parties agreed to:

1) Take immediate action to stop violence and restore fundamental rights and liberties;

2) Address the humanitarian crisis and promote reconciliation, healing and restoration of calm;

3) Overcome the political crisis; and

4) Address long-term issues and the root causes of conflict, including constitutional, legal and institutional reforms

A number of institutions were established to implement the envisaged reforms. Three commissions were established to address institutional challenges and provide recommendations on how to address them. These are discussed below.

The Independent Review Committee (IREC)

The Independent Review Commission (IREC) also known as the Kriegler Commission was established by the coalition government in 2008. Its mandate was to review the conduct of the 2007 elections with a view to establishing loopholes in the legal, institutional structure of the electoral framework, role of political parties, civil society, media, and observers, and assess the integrity of the elections and recommend reforms to improve future elections (KNDR, 2008).

The committee identified electoral malpractices such as violence orchestrated by marauding gangs and bully boys, hate speech, gender discrimination, and vote-buying and selling. There was also failure by the authorities to stop such offenses from happening. IREC recommended appropriate legal and institutional reforms to avoid discrimination and to enhance justice and efficient resolution of disputes. It also found out that electoral boundary limitations did not respect the basic principle of equality of votes (ICG, 2012).

Commission of Inquiry into Post-election Violence (CIPEV)

The Commission of Inquiry into Post-election Violence (CIPEV), also known as the Waki Commission' was established in 2008. The mandate of the commission was to investigate the facts relating to the post-election violence, the actions or omissions of state security agencies and provide recommendations to enable political, legal and institutional reforms that would bring to justice offenders; eradicate impunity and promote national reconciliation. It would then give appropriate recommendations to the Truth, Justice and Reconciliation Commission (TJRC).

CIPEV recommended police reforms, prosecution of those who bore the greatest responsibility for the violence either locally or at the International Court of Justice (ICC). CIPEV recommended further investigation and prosecution of suspected perpetrators of electoral violence and handed over names of prime suspects to be prosecuted in a special tribunal, but when that process failed, they handed the list to Kofi Annan in a sealed envelope (Abdullahi, 2013; ICG, 2012; HRW, 2013). This was the first commission to attempt a blow on impunity by providing an external justice option. The Waki Commission became the first to fulfill its mandate creatively without looking over their shoulders for political consequences (ICG, 2012).

The Independent Electoral and Boundaries Commission (IEBC)

The Interim Independent Electoral and Boundaries Commission (IIEC) and Interim Independent Boundaries Review Commission (IIBRC) created by the KNDR Accord were later merged into the Independent Electoral and Boundaries Commission (IEBC). IEBC is a creature of the constitution of Kenya 2010. It is a crucial institution entrusted with the responsibility of managing elections, which, as this paper indicates, may have a bearing on violence, democracy, stability, peace and

entrenchment of the rule of law. There have been different views on the performance of IEBC, with the current ruling Jubilee government supporting its continuation while the opposition, the Coalition for Reforms and Democracy (CORD), calling for its dissolution (Daily Nation, 2016).

The management of the 2013 elections, though better than that of the 2007 elections, was also fraught with technical hitches and irregularities (Sihanya, 2013). The Supreme Court's ruling on CORD's presidential election petition did not find such shortcomings significant enough to warrant discrediting the whole electoral process. There have been accusations towards IEBC of corruption and evidence of malpractices in procurement as found by a British Court (Sihanya, 2013). Having an electoral body that enjoys trust among power contenders cannot be gainsaid, therefore, the performance of IEBC towards the next general election will be a significant determinant of occurrence of electoral violence, inter-communal peace, democratization, and entrenchment of the rule of law.

The National Cohesion and Integration Commission (NCIC)

The National Cohesion and Integration Commission (NCIC) was established in 2008 through an act of parliament to *'facilitate and promote equality of opportunity, good relations, harmony and peaceful coexistence between persons of different ethnic and racial backgrounds'* (GoK, 2008). It was tasked with the responsibility of promoting inter-ethnic cohesion through preventing discrimination and hate speech. The commission was composed of high integrity members from different ethnic groups.

NCIC developed guidelines for journalists and media outlets on responsible journalism, conducting awareness training regarding, hate speech, warning that perpetrators would be held accountable, investigating and hearing

complaints on hate speech. NCIC also monitored social media such as Facebook, twitter and other internet platforms to stop hate messages. It also sent warnings to politicians and initiated prosecutions which helped to reduce electoral violence in 2013 (Abdullahi, 2013). Though the commission did not successfully prosecute offenders of hate speech, it enjoyed good media coverage to deter politicians from engaging in hate speech before and during the 2013 elections. Its effectiveness has however been questioned for prosecution failures (Sihanya, 2013).

The National Task Force on Police Reforms

The National Task Force on Police Reforms was established in 2009 chaired by Philip Ransley, to review the conduct of the police during the post-election violence. The recommendations of the latter and a provision in the new constitution saw the establishment of: Office of the Inspector General of Police (IGP) independent from the president and appointed through a transparent process; the National Police Service Commission (NPSC), a civilian oversight mechanism; and the Independent Police Oversight Authority (IPOA). The regular and administration police were also merged. There are still ongoing security sector reforms but the police are yet to advance to effective policing as exemplified by instances of failure to act on intelligence, failure to protect citizens, unjustified use of force and unprofessional conduct (ICG, 2012; KHRC, 2011; Daily Nation, 2016).

Truth Justice and Reconciliation Commission (TJRC)

The TJRC was established in 2008 to investigate social, political and economic crimes including human rights violations committed in Kenya from 1963 to 2008. The commission delivered its report in 2013 but received limited legitimacy among the public

due to questions on its leadership credibility (ICG, 2008). It however gave recommendations for investigations, prosecutions and reparations for human rights violations perpetrated in the past. The findings and recommendations are yet to be acted upon. The commission's report informed government policies and strategies on preventing recurrence of electoral violence.

The Judiciary

Corruption was well entrenched in the Kenyan judicial system well before 2008 (CIPEV, 2008). However, there was significant change by 2013. The Task Force on Judicial Reforms was established in 2009 to review proposed reforms and measures to restore public confidence in the judiciary. Its report in 2010 supported the new constitution and Judicial Services Bill and proposed additional measures (Sihanya, 2013). The Task Force also proposed new rules for vetting judicial appointees, reinforced Court's responsibility to uphold the Bill of Rights, and established a Supreme Court.

The Judicial Service Commission has fairly reformed the Judiciary through transparent selection of the Chief Justice and other senior officers through a vetting process. However, there are still pending corruption cases involving members of the Supreme Court, cases of some judges contesting retirement at the age of 70 years and selection of a new Chief Justice that will determine whether the Judiciary will lead the country in upholding the rule of law and hence preventing conflict (Hohn, 2014). By the start of November 2016, a new Chief Justice had been sworn to office.

The office of Ombudsman was created in 2011 and by 2013 had received 14,000 complaints. The capacity of courts to adjudicate cases timely has been raised. A new Chief Justice (Dr. Willy Mutunga) was appointed (now retired), more courts have been built, vetting of judges and magistrates has been done but there are still allegations of corruption including at the Supreme Court. JSC decisions have been

challenged by judges including in the Supreme Court such as the selfish filing of cases to challenge JSC decisions on retirement of senior judges.

The fast adjudication of presidential cases (within 14 days) enhanced the performance of courts of law in preventing electoral violence. In 2012, the Deputy Chief Justice was suspended over allegations of misconduct and later the High Court registrar was sacked over corruption allegations (Abdullahi, 2013). The performance of the Judiciary in addressing electoral violence seems to have been hampered by the office of Director of Public Prosecutions (DPP) and the police's low capacity to adduce credible evidence. It has been reported that only 7 post-election violence-related cases have been determined with convictions (HRW, 2011). The Witness Protection Act was adopted in 2010 but has not been effective. In addition, an International Crimes Division was established at the High Court in 2012 but it has not been operational (Hohn, 2014).

Other Government Reforms

Since 2008, a raft of political, judicial and electoral reforms has been implemented. The Political Parties Act (2011) forbids ethnic incitement, and vilification or incitement to cause harm. The Land Policy was translated into the Land Act in 2012, the new constitution created the National Land Commission (NLC) which has handled land disputes in different areas of the country but it is yet to address the immense land grievances (Sihanya, 2014). There have been disagreements between the ministry of Lands and NLC thus making land reforms a slow process. However, implementation of the constitution and legal provisions are ongoing.

The International Criminal Court (ICC)

After Parliament failed to establish a Special Tribunal in 2009, Kofi Annan gave the Waki list to the ICC in July 2009, noting that:

'..The people of Kenya want to see concrete progress on impunity. Without such progress, the reconciliation between ethnic groups and the long-term stability of Kenya is in jeopardy'.

On 15 December 2010, ICC charged 6 Kenyans including senior government leaders, Uhuru Kenyatta and William Ruto, for crimes against humanity for their role in the 2007 PEV (ICG, 2012). ICC prosecutions served to warn senior politicians against engaging in electoral violence in 2013. The process reinforced the need for addressing electoral disputes through courts. The ICC was perceived to be immune to domestic political/judicial manipulation. Thus, international justice was brought to bear on Kenya's fragile democratic experiment (Hohn, 2014; ICG, 2012).

These high-profile cases at the ICC ended with acquittal of those who allegedly bore the greatest responsibility for mass atrocities and without conviction or reparation, the victims were denied justice and impunity for political violence may have been re-inforced. The recent use of violence during a by-election in Malindi (March, 2016), may be an indicator of renewed political return to violence as a determinant or consequence of electoral outcome.

Implication of the Findings

The ghost of electoral violence has not been cleansed or buried in the country. Though the end of ICC cases may have provided relief from retributive justice for political violence, which enhances inter-communal trust, political cooperation and reconciliation in the short run, breakdown of international justice processes of the last resort further strengthens impunity which has been a trademark of Kenya's political landscape since 1992, and provides space for re-emergence of the unfettered ghosts of electoral violence in future elections, in the long run.

Though the judiciary has improved immensely, it cannot be completely immune

from local politics and can be used by political elites to fix each other. Given the history of impunity in Africa and the performance of the African Court of Justice in the Gambia, an AU court will equally be vulnerable to political interference.

The impunity of political parties and actors continues to water down the country's legal foundations. In 2013, the Kenya parliament voted to withdraw from the Rome Statute and repealed the International Crimes Act meant to allow ICC trial of crimes against humanity, genocide and war crimes committed after 2009. Civil society organizations perceived as supporters of ICC prosecutions have faced growing legal restrictions such as those imposed by the Public Benefits Organizations (PBO) Act 2013, which limit their foreign funding to 15%, with significant effect on their operations (Abdullahi, 2013).

The ongoing political, administrative and economic devolution and address of historical injustices and land-based grievances is crucial to electoral violence prevention in Kenya. In the long term, rising economic inequalities, unemployment among urban dwellers and the ability of devolved governments to stem inter-communal conflicts, may be likely sources or contributors of instability. State failure in Somalia, cross-border insecurity, Al Shabaab threats and climate change-related conflicts will exacerbate conflicts over water and pasture in pastoralist areas (Barkan, 2011).

The democratic consolidation trajectory in Kenya will be informed by expansion of the middle class (professional, civil society, private sector, informal sector), through education, urbanization and international exposure, sharing civic citizenship values that will override ethnic parochialism. The growing middle class made up of professionals, business community, and civil society is among the most vibrant in Eastern Africa and has effectively championed civic nationhood and human rights values since 1977.

The international community has shown significant willingness and diplomatic good offices to support Kenya. United States president Barrack Obama's, Pope Francis', and Ban Ki Moon's recent visits to Kenya, as well as Kofi Annan's follow-up on peace consolidation and international cooperation in counter-terrorism offer positive indicators for international commitment towards supporting stability in Kenya (Sabine, 2014). Given the history of impunity mentioned earlier, the sword of international justice should remain out of the sheath if electoral violence is to be completely eradicated in electoral contests.

Conclusion

This study has discussed the salient features of electoral violence in Kenya. The causes of this violence are largely within the orbit described by researchers in other case studies. However, it takes its own contextual dynamics in Kenya and it can be prevented and managed as proposed in the study. The institutions and structures of electoral practice are important variables in determining the emergence or otherwise of electoral violence by influencing choices and strategies at the disposal of political players. Though human security challenges can only be addressed in the long run, there is a wide array of strategies/institutional changes that the domestic and international actors can adapt to influence the course of electoral outcome toward peace. Implementation of the new constitution has run fairly on course albeit with some hiccups. Proper implementation of the constitution will determine the stability trajectory of the country and it may also bridge the fault-lines that have triggered previous violence.

Effective implementation of electoral violence prevention strategies is a long term process. Given the general predisposition of Kenya's main political players to pragmatism, shifting of alliances and high regard for international opinion on their democratic credentials, the road to non-violent elections in Kenya is a

feasible journey. The factors that were identified as causes of electoral violence since 1992 have to be adequately addressed for achievement of free and fair elections and sustainable peace.

Recommendations

- Continue full implementation of the 2010 constitution to enhance respect of human rights, free and fair elections, address grievances, reduce inequality and enhance national cohesion and integration

- Fast-track domestic prosecution of election violence-related crimes in domestic courts

- Strengthen IEBC to earn respect as a neutral umpire for political parties

- Support institutional development of political parties to act as building blocks of a democratic culture

- International electoral assistance could take the form of strengthening democratic structures within political parties, and at the governmental level, enforcing of electoral law, security sector deterrence and confidence-building measures, supporting voter education to cultivate democratic norms, and maintaining faith in the democratic system

REFERENCES

Abdullahi, B. H. (2013): R2P in Practice: Ethnic Violence, Elections and Atrocity Prevention in Kenya. , Occasional Papers Series No. 4, NY: Global Center for the Responsibility to Protect.

Akiwumi, A. (1999). Report of Judicial Inquiry into Tribal Clashes in Kenya, 2007. Nairobi: Akiwumi Judicial Commission of Inquiry, Government Printer.

Anderson, D. and Lochery, E. (2008). Violence and Exodus in Kenya's Rift Valley: Predictable and Preventable? *Journal of Eastern African Studies* 2(2): 328-343

Bardhan, P. (1997). Method in the Madness? A Political Economy Analysis of the Conflict in Less Developed Countries. *World Development* 25 (9): 1381-98.

Barkan, J.D. (2013). Electoral Violence in Kenya: Contingency Planning Memorandum No. 17. Washington, D.C: Center for Strategic and International Studies (CSIS).

Barkan, J.D. (2011). Assessing Risks to Stability. Washington D.C: CSIS.

Bekoe, D.A. (2012). Introduction: The Scope, Nature and Pattern of Electoral Violence in Sub-Saharan Africa. Washington D.C: United States Institute for Peace (USIP).

Bekoe, D.A. (2010). Trends in Electoral Violence in Sub-Saharan Africa. Washington D.C: USIP Peace Brief 13.

Berman, J.B. (1998). Ethnicity, Patronage and the African State: The Politics of Uncivil Nationalism. *African Affairs* 97, 305-341.

Brancati, D. and Snyder, J. L. (2011). 'Rushing to the Polls: The Causes of Premature Post- Conflict Elections'. *Journal of Conflict Resolution* 55 (3): 469-492.

Bratton, M. (2008). "Vote Buying and Violence in Nigeria Election Campaigns". *Electoral Studies* 4: 621-632.

Bratton, M. and Van De Walle, N. (1992). Popular Protest and Political Reform in Africa. *Comparative Politics* 24 (4): 419-442.

Brown, S. (2004). Theorizing Kenya's Transition to Democracy, *Journal of Contemporary African Studies* 22 (3): 325-342

Carment, D. (1993). The International Dimension of Ethnic Conflicts: Concepts, Indicators and Theory. *Journal of Peace Research* 30 (2): 137-150.

Cheeseman, N. (2008). The Kenya Elections of 2007: An Introduction. *Journal of Eastern African Studies* 2(2): 166-184.

Chandra, K. and Boule, C. (2012). 'A combinatorial Language for Thinking about Ethnic Identity Change'. *Constructivist theories of ethnic politics*, 179-228

CIPEV (2008). Report of the Commission of Inquiry into Post-Election Violence in Kenya. Nairobi: CIPEV.

Cleven, E. (2013a). Elites, Youth and Informal Networks: Explaining Ethnic Violence in Kenya and Kosovo. Purdue University, Indiana, USA: PhD Dissertation.

Cleven, E. (2013b). 'This Land is Your Land: Politicians, Land and Violence Specialists in Kenyan Elections'.

Northwestern University: Working Paper Presented at the States, Society and Development Conference (Program on African Studies) (on file with the author).

Collier, P. and Pedro, C. V. (2012). Violence, Bribery and Fraud: The Political Economy of Elections in Sub-Saharan Africa. *Public Choice* 153 (1-2): 117-149.

Daily Nation (2016). Reports on CORD Demonstrations against IEBC, May 16-30, 2016.

Dercon, S. and Gutiérrez-Romero, R., (2012). Triggers and characteristics of the 2007 Kenyan electoral violence. *World Development*, *40* (4), 731-744.

Elder, C, Susan, S. & Jonas, C. (2014). Elections and Violent Conflict in Kenya: Making Prevention Stick. Washington DC: USIP.

Fischer, J. (2002). Electoral Conflict and Violence: A Strategy for Study and Prevention. International Foundation for Electoral Systems (IFES) White Paper, Crystal City, Maryland, USA

Gibson, C.C, Long J.D. (2008). The Presidential and Parliamentary Elections in Kenya. *Electoral Studies* 28: 492-517.

Gurr, T. (1970). Why Men Rebel. New Jersey: Princeton University Press.

Haugerund, A. (1995). The Culture of Politics in Modern Kenya. Cambridge: Cambridge University Press.

Hickman, J. (2009). Is Electoral Violence Effective? Evidence from Sri Lanka's 2005 Presidential Election. *Contemporary South Asia* 17(4): 429-435.

Horowitz, D.L. (1993). Democracy in Divided Societies. *Journal of Democracy* 4(4): 18-38.

Hoglund, K. (2009). Electoral Violence in Conflict-ridden Societies: Concepts, Causes and Consequences. *Terrorism and Political Violence* 21 (4): 429-435.

Hoglund, K. (2010). Leaders, Violence and Political Power: Exploring Linkages between Political Leadership and Electoral Violence. New Orleans: International Studies Association (ISA) Paper.

Hohn, S. (2014). New Start or False Start? The ICC and Electoral Violence in Kenya. The Hague: International Institute of Social Studies.

Hornsby, C. (2013). Kenya: A History since Independence, London: I.B Tauris & Co. Ltd

Human Rights Watch (1993). Divide and Rule: State-sponsored Ethnic Violence in Kenya. New York: Human Rights Watch

Human Rights Watch (2008). Ballots to Bullets: Organized Political Violence and Kenya's Crisis of Governance Vol. 20, No. 1 (A).

Hyde, S.D. and Nikolay, M. (2012). Which Elections can be Lost? *Political Analysis*, Vol. 20, no.2, 191-210, National Elections across Democracy and Autocracy (NELDA)

ICG (2008). Kenya in Crisis. Africa Report No. 137-21, Nairobi, Kenya.

IREC (2008). Report of the Independent Review Commission on the General Elections held in Kenya, on 27th December 2007. Nairobi: Government Press.

Kagwanja, P.M. (2003). Facing Mount Kenya or Facing Mecca? The Mungiki, Ethnic Violence and the Politics of the Moi Succession in Kenya (1987-2002). *African Affairs* 102 (106): 25-49.

Kanyinga, K. (2009). The Legacy of the White Highlands: Land Rights, Ethnicity and the Post- 2007 Election Violence in Kenya. *Journal of Contemporary African Studies* 27(3): 325-344.

Kaverenge, S.K. (2008). Political Party Formation and Alliances: Case of Kenya. Atlantic International University: PhD Thesis.

Kenya Elections Domestic Observation Forum (KEDOF) (2007). The Kenya Election 2007: Losses, Gains and Lessons. Nairobi: KEDOF.

Kenya Human Rights Commission (KHRC) (1998). Killing the Vote: State-Sponsored Violence and Flawed Elections in Kenya. Nairobi: KHRC.

KHRC (2001). The Right to Return: The Internally Displaced Persons and the Culture of Impunity in Kenya. Nairobi: KHRC.

KHRC (2011). Lest We Forget: The Faces of Impunity in Kenya. Nairobi: KHRC.

Kenya National Commission on Human Rights (KNCHR) (2008). On the Brink of the Precipice: A Human Rights Account of Kenya's Post-2007 Election Violence. Nairobi: KNCHR.

Kiliku, K. (1993). Report of the Parliamentary Select Committee to Investigate Ethnic Clashes in Western and other Parts of Kenya, 1992. Nairobi: Government Printer.

Kimenyi, M.S. and Ndung'u, N.S. (2005). 'Sporadic Ethnic Violence: Why has Kenya not experienced Full-Blown Civil War?' in Collier, P. and Sambanis, N. (eds.) Understanding Civil War (Vol. 1: Africa). Washington D.C: The World Bank.

Klopp, J.M. (2000). Pilfering the Public: The Problem of Land Grabbing in Contemporary Kenya. *Africa Today* 47(1): 7-26.

KNDR (2008). Kenya National Dialogue and Reconciliation Agreement. Nairobi: KNDR.

Leys, C. (1975). Under-development in Kenya: The Political Economy of Neo-colonialism. Nairobi: Heinemann.

Lijphart, A. (1994). Electoral Systems and Party Systems. Oxford: Oxford University Press.

Lindberg, S. (2007). The Power of Elections Revisited: Election Paper, Elections and Political Identities in new Democracies. New Haven: Yale University Press.

Lipset, S.M. and Rokkan, S. (1967). "Cleavage Structures, Party Systems and Conflict Management in Segmented Societies" in Lipset, S.M. and Rokkan, S. (eds.), Party Systems and Voter Alignments: Cross-National Perspectives. New York: The Free Press.

Lonsdale, J. (2004). "The Dynamics of Ethnic Development in Africa: Moral and Political Argument in Kenya" in Bruce Berman et al (eds.). Ethnicity and Democracy in Africa. Oxford: James Currey, pp.73-95.

Maupeu, H. (2007). 'Revisiting Post-Election Violence', in La Farge, J. (ed.), The General Election in Kenya, 2007. *Le Cahiers d'Afrique de l'est*, No. 38, 193: 231

McBride, Gary, M. & Stergios, S. (2011). 'Peace and War with Endogenous Peace Capacity. *Journal of Conflict Resolution* 55 (3): 446-468.

Mozaffar, S., Scarrit, J.R. and Galaich, G. (2003). Electoral Institutions, Ethno-political Cleavages and Party Systems in Africa's Emerging Democracies. *The American Political Science Review*, 97(3): 378-390

Mueller, S.D. (2014). 'Kenya and the International Criminal Court: Politics, the Election and the Law. *Journal of Eastern African Studies* 8 (1): 25-42

NCCK (1992). The Cursed Arrow: A Report on Organized Violence against Democracy in Kenya, Vol. 1. Nairobi: NCCK.

Ndeti, N, Wambua, P, Mogambi, H. (2014). The Impact of Legislation on Electoral Opinion Polls in Kenya. European Scientific Journal, Vol. 10 (34), 250-270.

Ndungu' Commission (2004). 'Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land in Kenya. Nairobi: Government Printer.

Ngunyi, M. and Katumanga, M. (2014). From Monopoly to Oligopoly: Exploration of Four-Point Hypothesis Regarding Organized and Organic Militia in Kenya. Nairobi: UNDP.

Norris, R. (2013). Why Lack of Integrity Triggers Electoral Violence. Cambridge, MA: John F. Kennedy School of Government, Harvard University.

Oucho, J.O. (2008). Undercurrents of Post-Election Violence in Kenya: Issues in the Long Term Agenda, Leiden: The Netherlands, Brill Academic Publishers.

Reilly, B. and Reynolds, A. (1999). Electoral Systems and Conflict in Divided Societies. Washington DC: National Academy Press.

Reilly, B. (2002a). Post-Conflict Elections: Constraints and Dangers. *International Peacekeeping* 9 (2): 118-139.

Saideman, S.M, Lanoue D.J, Campenni, M. & Samuel S. (2002). Democratization, Political Institutions and Ethnic Conflict: A Pooled Time Series Analysis, 1985-1998, *Comparative Political Studies,* Vol. 35 (1), 103-209.Sihanya, B. (2013). Constitutional Commissions in Kenya: Experiences, Challenges and Lessons. Nairobi: Society for International Development (SID).

Straus, S. (2012). 'Wars do End! Changing Patterns of Political Violence in Sub-Saharan Africa'. *African Affairs* 111(443), 179-201.

Suberu, T.R. (2007). Nigeria's Muddled Elections. *Journal of Democracy* 18(4), 95-110

Triche, R.M. (2013). Treating the Symptoms of Commitment Issues: Analyzing Institutions as a Prescription – A Case Study of Kenya, Honors Essay submitted to the University of North Carolina at Chapel Hill, April, 9, 2013.

Van de Walle (2002). Elections without Democracy: Africa's Range of Elections. *Journal of Democracy* 13 (2): 66-80.

Throup, D. (2003). The Kenyan General Election, December 27, 2002. *Africa Notes* 14: 1-9.

UNDP (2002). Kenya Human Development Report, 2001: Addressing Social and Economic Disparities. Nairobi: UNDP.

USIP (2014). Elections and Violent Conflict in Kenya: Making Prevention Stick. Washington DC: USIP.

Young, C. (2002). Ethnicity and Politics in Africa. Boston University: African Studies Center..

Civil Society and the Eastern Africa Counter-terrorism Agenda: A Critical Account

Mumo Nzau, Ph.D
The Catholic University of Eastern Africa

Abstract

Terrorism continues to pose serious challenges to states in Eastern Africa. Mutating and elusive repertoires around the vice have proven difficult to muster for many a government in the region and beyond. Lately however, counterterrorism efforts on the part of governments have tended to pit them against civil society organizations. More often than not, the bone of contention has been that governments, on the one hand, have accused a number of civil society actors and/or groups of funding, aiding or otherwise facilitating terror. On the other hand, civil society organizations have launched counter-accusations on the premise that governments have failed to diligently perform their core task of protecting the life, liberty and property of citizens, and have instead chosen to direct their 'frustrations' on the civil society- a state of things which is seen to not only contravene the ethos of democracy but also encourage abuse of human rights. This paper attempts to decipher critical issues in this debate with the aim of addressing pertinent questions concerning the role of the civil society in counter-terrorism in Eastern Africa. Key questions herein include: what is the role of the civil society in counter-terrorism? Is it an actor or a mere spectator in this process? How best can it be involved and its role mainstreamed in the region? In the final analysis, the discussion thrushes-out pertinent academic and policy issues in this debate by shedding light on current challenges and future prospects, before projecting into the future by making recommendations on the same.

Introduction

Over the past two decades or so, acts of international and localized terrorism in Africa and elsewhere in the world have not only caused wanton human suffering but also constituted a direct threat to state survival. Terrorism continues to pose serious challenges to states in Africa. Mutating and elusive repertoires around the vice have proven difficult to muster for many a government in the region. While regional governments, singly or collectively, have continued to enhance their counterterrorism strategies and capabilities, from time to time, serious qualms have emerged concerning the extent to which these processes have contravened and/or fell short of international human rights commitments and expectations on the part of states (Boer, 2008).

More often than not, governments have found themselves on the receiving end in this debate. Accusations and counter-accusations have been traded in various circles over atrocities and/or excesses on the part of governments in their efforts to prevent, contain and punish terror. For the most part however, concerned governments have maintained that human rights platforms have been, more often than not, unduly exploited by civil society actors to the extent of aiding and abetting terror and/or extremist ideologies and, thereby, jeopardizing and further convoluting counterterrorism efforts in the region. Subsequently, counterterrorism efforts on the part of governments have tended to pit them against various civil society organizations (Rosand and Ipe, 2008). Often, the bone of contention has been that governments, on the one hand,

have accused a number of civil society actors and/or groups of funding, aiding or otherwise facilitating terror (Bandyopadhyay et al, 2010).

On the other hand, civil society organizations have launched counter-accusations against the premise that governments have failed to diligently perform their core task of protecting the life, liberty and property of citizens and instead chosen to direct their 'frustrations' on civil society- a move construed to not only contravene the ethos of democracy but also encourage the abuse of human rights (Brysk and Gershon, 2007). This paper attempts to decipher critical issues in this debate with the aim of addressing pertinent questions concerning the role of civil society in counterterrorism. Taking an analytical approach, the paper examines the nuances occasioned by the civil society-counterterrorism debate in the Eastern Africa region before proffering pertinent academic and policy recommendations in as far as charting out a "working formula" around the issue is concerned.

Key questions herein include: what is the role of civil society in counterterrorism? Is it an actor or mere spectator in this process? How best can it be involved and its role mainstreamed in the region? In the final analysis, the discussion thrushes-out pertinent academic and policy issues in this debate by shedding light on the current challenges and future prospects on the same, before projecting into the future by making pertinent recommendations going forward. Be it as it may, the scourge of terrorism on the continent remains real and imminent, one that more than ever before requires pertinent strategic and sustainable solutions that are alive to the realities of globally tenable human rights norms and practices.

Some Theoretical Premises

The issue of how one "civil society" can find a place in another- "counterterrorism" calls for a theoretical explanation. A good starting point in this discourse would be to first define these concepts clearly and examine their theoretical conceptualizations in the literature. According to Edward Shils (1991: 2), "the idea of civil society is about a part of society which has a life of its own which is distinctly different from the state and is largely in autonomy from it. Civil society lies beyond the boundaries of the family and the clan and beyond the locality". Jean Francois Bayart (1986:105-125) describes civil society as "society in confrontation in so far as its relation with the state is concerned. More precisely, this entails a process by which society seeks to breach and counteract the simultaneous totalization unleashed by the state."

The idea of civil society has three main components: "One: a part of society comprises a complex of autonomous institutions e.g. religious, economic, intellectual etc. distinguishing from the family, the clan, the locality and the state; Two: a part of society processing a particular complex of relationships between them which safeguard the separation of state and civil society and maintain effective ties between them; and Third: a widespread pattern of refined or civil manners."

"Civil society is not totally separate from the state. It would not be part of the society as a whole it were totally separated. The state lays down laws which set the outermost boundaries of the autonomy of the diverse spheres and sectors of civil society. Civil society on its part lays down limits on the actions of the state. Civil society comprises of all non-state actors. Civil society and the state are bound together by the constitution and by tradition which stresses the obligation of each to the other as well as their rights vis-à-vis each other. Civil society is not necessarily embodied in a single identifiable structure. It is by its very nature plural and it covers all sorts of different practices." According to Patrick Chabal, "the right to hold rulers responsible resides not only in form of constitutional devices that is part of the social fabric in society. Above all else, it is embodied/symbolized in the relation between

the state and civil society. In situations where formal institutions of political representation have been overpowered by executive monopoly, accountability comes to depend almost entirely on the ability of civil society to curb the hegemony of the state classical traits on political pluralism tend to portray civil society as a buffer against the state." Michael Bratton, (1997) however, argues that civil society is not at odds with the state but the need to leave room for engagement between state and society may be congruent as well as conflictual. Anyang Nyon'go (1987), on the other hand, points out that "the relationship between the state and civil society in Africa is rough and exploitative. The state's weakness in Africa derives from its subordination to stronger institutions. It has sponsored the formation of a strong bureaucratic class. Internally, state elites seek to monopolize economic activity and resent the formation of social constellations with an independent base." Victor Azarya (1994) argues that "influence and authority is not the exclusive domain of the state. Various segments of society manage to maintain patterns which are of variance with the state code. Groups in civil society hence, correspond accordingly to the policy initiatives of the state."

In the words of Rothschild and Chazan, (1988) "Civil society operates in arenas beyond state control and influence and has an independent effect upon economy and society, as well as upon the formation, consolidation and performance of the state itself. In Africa, civil society manifests itself in informal rather than formal linkages. In authoritarian regimes where the opposition may be outlawed, civil association is forced to occur underground. Formal organizations in civil society include NGOs, employer organizations and producer unions. These elements of the civil society expand as the state contracts and are currently playing a critical role in key sectors of African economies. The

emergence of an active civil society depends also to a great degree, on indigenous capitalist industrialization as well as developed social classes".

Finally, Diamond, (1994) posits that: "civil society does not automatically spring up where the state's collapse is beyond the reach of the political elites rather, civil society is likely to expand to fill the gaps where the retreat of the state is intended, planned and guaranteed. However, state-civil society relations need not always be confronted and under certain circumstance may be complementary. Conflict is likely to occur when civil actors try to engage the state over political space that the state elite have already occupied. Congruence or cooperation is likely when voluntary bodies or social movements occupy space which the state has never penetrated or from which state elite have decided to retreat".

On the other hand, counterterrorism is a highly state-centric activity. Realists would readily agree with this assertion because, after all, the state is the place of last resort, the ultimate guarantor of security and survival. This is another way of saying that to the realist par excellence, non-state actors have not much to offer in any recipe for national security. This "traditional" view continues to guide national security theory and practice in many contexts both in temporal and spatial terms. Nonetheless, liberal views on national security have gained popularity especially in the post-Cold War period. The liberal thesis engendered a conception of national security that is more holistic in character. Subsequently, as far as national security is concerned, the 'meeting point' between these two potentially opposed schools of thought is what has emerged to be a more holistic argument for national and/ or regional security- the Human Security Paradigm. It is within this *holistic* context that the discussion in this paper of "civil society and counterterrorism" with specific reference to the Eastern Africa experience is examined. From these lenses, it is possible to argue that

in any modern democratic state, there is room for non-governmental actors in any recipe for national security albeit only to a certain level.

Terrorism and Counterterrorism in Eastern Africa in Retrospect

Terror attacks in the Africa region have been few and far between right from the early post-independence time in the 1960s through to the 1980s. Nonetheless, African governments and international security agencies in those old days begun to be concerned about terrorism especially after the Munich Attack in September 1972 and the Entebbe hostage incident in June 1976 as well as the Norfolk Bombing in Nairobi on December 31st 1980-all of which were directed against Israeli nationals. This was the context of terrorism and counterterrorism in the immediate post-independence Africa. The vice seemed to have been localized to the Middle East in the context of the Arab-Israeli conflict but was also in the context of the Northern Ireland conflict in which terror methods were employed by the Irish Republican Army against the United Kingdom especially in the 1980s.

In the 'strict sense of the word', internally directed (domestic) forms of terrorism in Africa have been in existence for a long time, though perhaps not publicized due to their localized nature. National liberation movements in Africa such as the Mau Mau in Kenya, the Algerian liberation movement, the armed wing of the African National Congress (ANC) in South Africa, South Western Africa People's Organization (SWAPO) in Namibia and the Zimbabwe African National Union-Patriotic Front (ZANU-PF) in Zimbabwe (then, Southern Rhodesia) were all classified at one time or another as terrorist organizations. The 1960s through to the1990s were characterized by numerous civil wars on the African scene. Examples include Zaire (now Democratic Republic of Congo (DRC), Nigeria, Mali, Ethiopia, Uganda, Sudan, Angola, Mozambique, Rwanda and Burundi just to mention but a few. These conflicts were characterized by what would, in many respects, pass to be acts of terror against civilian populations.

Nonetheless, the kind of terrorism that emerged in the immediate post-Cold War period was one which seemed to pit the Arab and/or Muslim world on one hand against the United States and the West on the other- it had assumed a global character. In fact, it was not until the August 7th 1998 attack on the US Embassies in Nairobi and Dar-es-Salaam that counterterrorism operations in the region were stepped up. Today's context of terrorism in Eastern Africa seems to be centered on the Al-Qaeda-related extremist group, Al-Shabaab, in Somalia. This outfit has been quite active and increasingly working in cahoots with other militant groups' cells that are dotted all over the northern region especially in Libya, Nigeria (Boko Haram), Mali, Algeria, Morocco and Egypt (and by extension, Yemen, Oman, the Comoros and Afghanistan). Over this period, Eastern Africa has been a major focal point in as far as the activities of international terror groups are concerned.

According to the Global Terrorism Index Report for 2014, eight of the top-20 states (out of 162) most affected by terrorism are in Africa namely Nigeria, Somalia, Kenya, Egypt, Libya, the Democratic Republic of the Congo (DRC), Sudan and the Republic of South Sudan. A cursory glance at the statistics reveals that at least three of these fall within the Eastern Africa cluster. Hence, it is clear that the Eastern Africa region is at the core of the African counterterrorism agenda. But how did this come to be? During this period, governments in the region- either singly or collectively- have been keen to counter the threat posed by Al-Qaeda, Al Hijra, and Al-Shabaab (among others) and their sympathizers. By late 2006, it was clear to

the international community that terrorism and terror networks had pitched camp in Somalia. Security agencies in the region were also aware that there was a growing number of active as well as terror sleeper cells in many parts of the region and more so in Somalia, Sudan, Kenya, Tanzania and Uganda. The unilateral undertaking by Ethiopian forces in Somalia in December 2006 marked the first move in the direction of routing-out these organizations, with Somalia as the main point of focus (Siefert 2008).

This Operation somewhat set the pace for similar counterterrorism undertakings by other regional states (Derso, 2009). The Ethiopian campaign was on several instances bolstered by concurrent stealth surgical strikes by the United States in early January 2007 targeting suspected extremists belonging to several fundamentalist off-shoots of the ICU (Nzau, 2010: 165). These groups included the Al-Ittihad Islamiya, Hizbul Islam, Ahlu Sunna Waljama'a, Ras Kamboni Brigades, Jama Islamiya and (the then emerging) Mujahideen Youth Movement, among others, believed to have been enjoying the support of international terror networks including Al-Qaeda (Sabala, 2011: 109-110). Halting their growth and influence was deemed urgent and necessary for the then Transitional Federal Government of Somalia to gain full control in the war-torn state. Since then, the regional counterterrorism strategy has since had Somalia as its focal point. With the blessing of the United Nations Security Council (UNSC), the African Union Mission in Somalia (AMISOM) commenced its mission in Somalia in March 2007, with a force consisting mainly of Ugandan troops who were later joined by Burundian troops (Sabala 2011, 99; Wakengela, 2011: 383-384). It seemed as though Al-Shabaab activity was confined to Somalia in a bid to oust the then Transitional Federal Government (TFG) through conventional and/or unconventional warfare- whichever met their goals best. It was therefore no surprise when Al-Shabaab claimed responsibility for the Kampala 11th

July 2010 terror attacks. A week later, on 23rd July 2010, on the eve of African Union's Summit in Kampala, AU Commission chairperson, Jean Ping, announced that he had asked countries, including South Africa, to support the African Union Mission in Somalia (AMISOM). Although many African Heads of State strongly condemned the Kampala terror attacks, they seemed unable to provide a final and lasting solution to the 'Somalia Question'. Al Shabaab appeared untamable and it continued with its terror operations on land and at sea with sheer impunity.

It was against this background that in mid-October 2011, The Kenya Defence Forces were ordered into action to stop Somalia's Al Shabaab militia from further threatening the country's security and economy. Kenya declared war on the terrorist organization operating from Somalia and said Kenyan security forces would henceforth pursue the aggressors across the border. Kenyan authorities argued that Kenya had a right to self defence, adding that the Constitution and the UN charter were clear on the defence of borders. They invoked Article 51 of the United Nations Charter which pronounces self defence as an inherent right- meaning that a country can do whatever is necessary to keep its borders secure (Nzau 2013).

Kenya had little options but to go after Al Shabaab militants who abducted aid workers from the Dadaab refugee camp. In retaliation, Al Shabaab made several terror incursions into Kenya. Al Shabaab spokesman Sheikh Ali Mohamud Rage threatened to launch terror attacks in Kenyan cities if Kenya did not withdraw its troops. Since the onset of *Operation Linda Nchi* (OLN) (meaning Operation to Protect the Nation) in Mid-October 2011, Nairobi and various parts of the North Eastern Province came under terrorist attacks by Al Shabaab operatives and their local sympathizers. Today, Al Shabaab remains the greatest threat to Kenya's national security as well as that of the wider Eastern Africa region (Nzau and Mwanzia, 2014).

The *Operation Linda Nchi* lasted between October 2011 and June 2012, when Kenya officially joined AMISOM (KDF, 2014). OLN's main strategic objective was to crush the military capabilities of *Al-Shabaab* and diminish their direct influence especially along the border with Kenya (International Crisis Group, 2012). These direct preemptive actions seem to have only partially succeeded because armed opposition to the TFG has persisted ever since. On the whole, the situation in Somalia has remained relatively stable though volatile but the threat of terror inside Somalia has been significantly reduced. Be it as it may, Al-Shabaab managed to carry out several devastating attacks on soft targets especially in Kenya. The first major one of this kind was the Westgate Attack of September 2013, followed by the Mpeketoni, Lamu, attacks of June 2014 and the Garissa Attack of April 2015. Other smaller but deadly attacks have also taken place mainly on Kenyan soil including the September 2014 slaying of 28 passengers and the December 2014 attack on a quarry in Mandera that left 36 dead among many others (of smaller magnitude mainly involving the use of grenades and improvised explosive devices) that numbered at least 80 by December 2014. Meanwhile, dozens of suicide bombings have taken place inside Somalia with the latest one involving a UN vehicle in April 2015, leaving six UNICEF personnel dead.

Mainstreaming the Role of Civil Society in Counterterrorism in the Region: Current Challenges and Future Prospects

One problematic issue about civil society agencies is that they are not one uniform outfit. Their goals are not all similar and their modes of operation are not uniform and/or standardized. For the most part therefore, civil society's areas of operation and general scope vary. In fact, there can be as many organizations and/or agencies as there are interest areas. Their goals also change according to societal needs both in spatial and temporal terms. The civil society

of Eastern Africa in the 1980s was perhaps quite different from that today. The character of these organizations is such that their goals and/or missions differ over time depending on the realities and/or challenges facing their societies at any given time (Rothchild and Chazan, 1988). For instance, before the 1990s, the agendas informing civil society activity in many parts of sub-Saharan Africa were mainly around issues of fighting various forms of authoritarianism and enhancing various basic freedoms in the face of megalomaniac leaders and autocratic regimes (Bratton and Van de Walle, 1997). In the same vein, it is also true that the different countries in the region cannot be said to be at the same socio-political and/or economic wavelength. Some may be at different levels of political change and/or democratization. Eritrea is not Kenya and Kenya is not Rwanda and neither is Rwanda South Sudan. They all have their unique endowments, opportunities, strengths and weaknesses in as far as their democratic gains are concerned, and hence, the dynamics of state-civil society relations in these countries are bound to be different in many respects.

All the same, following the advent of multiparty politics in several countries in Eastern Africa, the role of some sections of civil society has since been redefined. Some members of the civil society who were said to be on the side of "pro-opposition politics" later abandoned their regular watchdog positions to join politics and become part of the very government that they earlier opposed once the parties they formed or joined attained power. Others stayed put and continued with the oversight role on various issue-areas such as human rights, environmental governance, community capacity building, community development, general education, gender equity advocacy, civic education, and conflict management and peace-building. How best then would the role of these organizations in counterterrorism be mainstreamed, yet their goals and domains of focus keep mutating? In other words, in a bid to mainstream the role of civil society into

the counterterrorism agenda in Eastern Africa, it is imperative first to realize that it is not a standard or uniform outfit and its areas of interest keep mutating depending on the issues at hand.

For a long time, civil society activity in Eastern Africa has been confined mainly to the struggle for democratization. Most of post-independence Africa was under some form of authoritarian rule ranging from personal dictatorships such as that in Uganda under General Idi Amin; military juntas such as that in Ethiopia under Colonel Mengistu Haile Mariam; Burundi under Micombero, Jean Baptiste Bagaza and Pierre Buyoya; Somalia under General Siad Barre; and Kenya, Tanzania and Rwanda under the one-party rule. During the decade of the 1980s and more so in the 1990s, civil society organizations became more and more active in agitating for the adoption of multiparty politics, wider political space and improvements in the protection of civil rights and liberties. In those years, the civil society existed but at times operated in moribund and/or covert contexts due to suppressive state policies. They could easily be branded dissidents, have their operations paralyzed and their premises closed. Nonetheless, the advent of the new era of democratization during the 1990s further legitimized their operations and made their presence more overt.

Since then, civil society in the region has continued to play its oversight, educative, supportive and/or informational role as far as the operations of government are concerned. Nonetheless, with the prevalence of terror activities in the region over the last decade, genuine fears have been expressed concerning the activities of several civil society organizations. State authorities have expressed concern that some civil society organizations have been used (either knowingly or unknowingly) to facilitate the murderous actions of several international terror organizations such as *Al Qaeda* and *Al Shabaab* (Howell and Lind, 2009). However,

it is only a handful of such agencies that have been suspected and/or accused of such transgressions and/or crimes. These issues have arisen amid fears that the operations of some civil society organizations could be detrimental to state security and survival especially in the face of increased terror activities with Kenya and Somalia being the key focal points. It was against this background for instance that the Kenyan (as well as Ugandan) authorities have from time to time taken steps to freeze bank accounts of two local human rights groups, Haki Africa and Muslims for Human Rights (MUHURI), following UN-corroborated classified information to the effect that the two agencies had in one way or another abated and/or acted as conduits for terrorism.

An interesting thing to mention in this debate is that over time, some civil society organizations emerge out of the needs and/or challenges facing their societies at any one given time. In the 2000s, it was argued that civil society organizations of yesteryears were now "jobless" since the job of delivering democratic change was 'already done.' Others seem to have taken it upon themselves to oversee the democratic transition and to ensure that the constitutional, legal and administrative reforms that brought the political pluralism of the 1990s were safeguarded. It has also been argued that some of these organizations are in fact suffering from hangovers of yesteryears and are only "making noise" to remain relevant and make money from donor agencies, and this has been the position of governments in the region (for the most part) in so far as the operations of certain "questionable" civil society agencies are concerned. Government agencies in the region have also tended to be stuck to the classical looking-glasses of the purely military strategic kind, such that more often, civil society actors tend to be treated with suspicion especially on the sensitive matter of counter-terrorism- governments are not sure whether to treat this "new actor" as friend or foe (Cortright et al, 2011).

Yet, in as far as the broader liberal ideas on national security are concerned, a holistic approach to national security of the "human security paradigm" is necessary in any formula for finding a rightful place for civil society. What then is the role of the civil society in counterterrorism? Is it an actor or a mere spectator in this process? How can its role be mainstreamed in as far as counterterrorism is concerned? In an attempt to answer these questions, it would be prudent to be cognizant of the fact that the state does not have a monopoly over counterterrorism. Nonetheless, it takes a crucial legal, constitutional and operational function when it comes to such matters. This is another way of saying that other actors also have a stake in ensuring their own security as individuals, villages, neighbourhoods and communities. In other words, there may be certain requisite conditions that if met, would enable civil society to play its rightful role in the regional counter-terrorism agenda.

First, all non-governmental organizations, community-based organizations and the various interest and/or pressure groups of different persuasions within the region should place patriotism, dedicated service delivery and integrity at the core of their priorities. It would not be wrong for one to contend that a good number of civil society organizations in the region are operated by unscrupulous individuals whose greatest interest is nothing more than personal financial gain. The owners and/or managers of some of these organizations tend to enrich themselves in the name of "fighting human rights abuse, gender inequality and sociopolitical marginalization." This trend ought to be reversed and the ideals for which such organizations advocate upheld and respected. Further, all civil society organizations ought to device and enforce certain self-regulating mechanisms to ensure that those organizations in their midst that are proven to be involved in corruption, fraud and support of terrorism and/or gross crimes are shunned and deregistered and their officials

punished (Hayes, 2012). It must not also be forgotten that from time to time, civil society organizations have been primary targets of international terrorism (Branscomb, 2004; Quigley and Pratten 2007). In fact, one of the reasons behind Kenya's unilateral move to pursue the Al Shabaab into Somalia was the persistent abduction of aid workers serving under various NGOs and/or INGOs based in northern Kenya who would be taken hostage and ransom paid (Lind and Howell, 2010).

Second, it is noteworthy that counterterrorism is about the efforts that a states and other actors employ in order to prevent, forestall and contain terrorist activity. It is traditionally a militaristic affair which includes intense technical, political, economic and human intelligence in order to prevent acts of terror, disrupt the plans of terror networks and finally, effective counter-terror attacks if and when they occur. However, while these technical aspects of the counterterrorism effort are left to the relevant state security agencies, this is perhaps constitutes a third of the effort and/or action required (Michaelsen, 2008). Against this premise, civil society should never be treated as a mere spectator in this process. Rather, it is building upon the fundamental values upon which every Eastern African country bases its nationhood and upon the widely accepted ethos of human existence and human dignity. Civil society organizations at whatever level (local, national or sub-regional) should continue to nurture and engender a better sociopolitical, cultural and economic environment conducive to countering the structural factors that act as catalysts for radicalization, fundamentalism, religious extremism, poverty, youth unemployment, and general societal ignorance and/or apathy, factors which lay fertile grounds for infiltration by regional and international terror networks today (Christopher 2012). In other words, CSOs should educate, facilitate, inform, research and guide the wider society on matters of human security with a view to militating against extremism.

At this juncture, the idea of 'best practices' comes to mind. In order for CSOs in the region to forge and sustain their role in this process, they ought to borrow a leaf from similar experiences in other countries. For instance, citizens in many countries around the world today have come to realize that it is counterproductive to expose counterterrorism operations on "live mode" since this jeopardizes everyone's security. It was for these reasons that at the Boston bombing of April 2013, the December 2014 terror attack on a restaurant in Sydney, Australia, and the January 2015 terror attack on a media house in Paris, France, live transmission was delayed while media houses and other commentators had to consult with the authorities before commenting and/or reporting on the rescue operations as they actually took place. Perhaps, these newly acceptable ways of handling security situations have followed the realization that fundamental issues such as national security especially in the context of terrorism are in fact extremely important to the very democratic gains that they (civil society groups) so fervently purport to fight for and/or protect (Howell, 2006).

Third, civil society plays a crucial role in engendering and enhancing a favorable environment necessary for the thriving of democratic ideals and hence more stability- the kind of political stability that is not forced on the people through authoritarian means but rather, one that is informed by the rule of law, efficiency, public transparency and accountability. Responsive and responsible leadership enables open competition, fair and equitable distribution of national resources as well as the practice of politics of purposive and informed compromise geared towards the collective end of building better and prosperous societies (The Change Institute, 2008). This is indeed the best way to mainstream the role of civil society in as far as the counterterrorism agenda in the Eastern Africa region is concerned. As such, informed by the very fact that civil society is to play the watchdog

role for the wider society with respect to the relationship between the governors and the governed but when it comes to sensitive and delicate issues such as 'terrorism and how to counter it" there should be well thought-out procedural issues concerning when, where and how to undertake this role while keeping in mind that the terrorist is *hosti humani generis* (which means 'enemy of all humanity').

Fourth, to effectively meet these goals on the part of civil society, it should be borne in mind that civil society cannot operate well in an environment that is lawless and disorderly, hence the need for governments to fulfill their end of the bargain. It is important to note that civil organizations can never completely replace the state in all its manifest functions, nor should they attempt to do so. They should at times supplement the role of the state in the provision of certain goods and services. Furthermore, "civil society does not flourish amidst political disorder, lawlessness and inadequate physical infrastructure Hence, civil society organizations depend upon the state for the creation of certain basic conditions of existence. For these reasons, it is imperative upon state authorities to realize that their engagement with civil society organizations on matters of national security and counterterrorism should be one that is informed by mutual trust and reinforcement in an atmosphere of enhanced governance, wide consultation and mutual respect for each other's role (Van Ginkel et al, 2010); Van Ginkel, 2012). In other words, governments or state authorities in general must take the lead in creating the necessary enabling environment for the same.

Conclusion and Way Forward

This paper set out to make a critical account of the role of civil society in as far as the counterterrorism agenda in Eastern Africa today is concerned. It sought to grapple with the theoretical and/or policy issues that have permeated the debate over the past few years,

and more so, in the context of the real and imminent danger that terrorism poses to state survival and general societal wellbeing in the region. Having shed light on the background experiences, the discussion went further to explore ways in which civil society agencies can contribute to the counterterrorism processes in the region. Of critical importance are questions to do with the delicate balance between order and liberty in transitional democracies which make up most of the Eastern African region.

By and large, this paper has managed to bring out several important issues in as far as the role of civil society in the counterterrorism agenda in Eastern Africa is concerned. One key emergent issue is that in the same way civil society organizations can be conduits for terrorism, they too can be important actors in the counterterrorism agenda. Their role in changing mind-sets and fighting fundamentalist ideologies and youth radicalization cannot be underestimated. Subsequently, there are certain requisite conditions that if well addressed can better improve this noble role. First is the realization that not all civil society organizations can directly be involved in the process due to different and/or varied interest areas. Second, civil society cannot tread this difficult path on its own. It needs better enabling environments and these are best availed by governments. Third, this can only happen if both state and civil society realize that their relationship to the state in this agenda is complementary, not competitive and/or conflict-ridden.

REFERENCES

Azarya, V. (1994). Civil Society and Disengagement in Africa. Harry S. Truman Institute for the Advancement of Peace. Hebrew University of Jerusalem.

Bandyopadhyay, S., Sandler, T. and Younas, J. (2010). Foreign Aid as Counterterrorism Policy. St. Louis, MO: Federal Reserve Bank of St. Loius.

Bayart, Jean-Francois (1986). "Civil Society in Africa" in Patrick Chabal (ed.), Political Domination in Africa. Oxford: Oxford University Press.

Boer, M. D., Hillebrand, C. and Noelke, A. (2008). Legitimacy under Pressure: The European Web of Counter-Terrorism Network. *Journal of Common Market Studies* 46(1): 101-124.

Branscomb, L. (2004). Protecting Civil Society from Terrorism: The Search for a Sustainable Strategy. *Technology in Society* 26(2): 271-285.

Bratton, M. and Van de Walle, N. (1997). Democratic Experiments in Africa: Regime Transitions in Comparative Perspective. Cambridge: Cambridge University Press.

Bratton, M. (1989). Beyond the State: Civil Society and Associational Life in Africa. *World Politics* 41(3):407-430.

Brysk, A. and Shafir, G. (eds.) (2007). National Insecurity and Human Rights: Democracies Debate Counterterrorism (Vol. 5). University of California Press. Chabal, P. (1986). Political Domination in Africa. Oxford: Oxford University Press.

Bail, C.A. (2012). The Fringe Effect of Civil Society Organizations and the Evolution of Media Discourse about Islam Since the September 11th Attacks. *American Sociological Review* 77(6): 855-879.

Cortright, D., Millar, A., Stellingwerf, L., Lopez, G., Fackler, E. and Weaver, J. (2011). Friend Not Foe: Opening Spaces for Civil Society Engagement to Prevent Violent Extremism (2nd Edition). North Carolina, SSRP: University of Notre Dame.

Derso, A. S. (2009). The Somalia Conflict: Implications for Peacekeeping Efforts. Nairobi: Institute of Security Studies (ISS).

Diamond, L. (1994). Rethinking Civil Society: Towards Democratic Consolidation. *Journal of Democracy* 5(3):4-17.

Hayes, B. (2012). Counter-Terrorism, 'Policy Laundering' and the FATF: Legalizing Surveillance, Regulating Civil Society: London: Trans-National Institute/Statewatch.

Howell, J. and Lind, J. (2009). Counter-Terrorism, Aid and Civil Society: Before and After the War on Terror. Hampshire, UK: Palgrave Macmillan.

Howell, J. (2006). The Global War on Terror, Development and Civil Society. *Journal of International Development* 18(1): 121-135.

Kenya Defence Forces (KDF) - Migwi Pius (Col.) and Imbiakha Charles (Lt. Col.) (eds.) (2014). Operation Linda Nchi, The Official Account: Kenya's Military

Experience in Somalia. Nairobi: Kenya Defence Forces (KDF).

Lind, J. and Howell, J. (2010). Counter-terrorism and the Politics of Aid: Civil Society Responses in Kenya. *Development and Change* 41(2): 335-353.

Menkhaus, K. (2012). After the Kenyan Intervention in Somalia. Washington, D.C: Centre for American Progress to End Genocide and Crimes Against Humanity.

Michaelsen, C. (2008). The Role of Civil Society in Preventing and Combating Terrorism. University of Hamburg/IFSH: Institute for Peace Research and Security Policy, OSCE Yearbook 2007, Vol. 12 (Baden-Baden: Nomos), pp. 341-50.

Nyongo, P. A. (1987). Popular Struggles for Democracy in Africa. London: Zed Books.

Nzau, M. and Mwanzia, C. (2014). Diplomatic Manoeuvre and Kenya's Military Campaign in Somalia. *Amani Africa Journal* 1(1)

Nzau, M. (2010). Counter-Terrorism in the Greater Horn of Africa 2004-2010: Revisiting the Somalia Question. *Journal of Language, Technology and Entrepreneurship in Africa*. 2(3): 163-177.

Nzau, M. (2013). "Implications of 'Kenya's Operation Linda Nchi' in Somalia on the Future of Peace and Security in the Greater Horn of Africa," in Amutabi, M.N. (ed). Politics, Governance and Development in Africa: Retrospection of Fifty Years of Self Rule. Nairobi: CUEA Press.

Quigley, N. and Pratten, B. (2007). Security and Civil Society: The Impact of Counter-Terrorism Measures on Civil Society Organizations. London: NCVO.

Rosand, E., Millar, A. and Ipe, J. (2008). Civil Society and the UN Global Counter-Terrorism Strategy: Opportunities and Challenges. New York: Center on Global Counterterrorism Cooperation.

Rothchild, D. and Chazan N. (eds.) (1988). The Precarious Balance: State and Civil Society in Africa. Colorado: Westview Press.

Sabala, K. (2011). "Regional and Extra-regional Inputs in Promoting (In)security in Somalia" in Sharamo Roba and Mesfin Berouk (eds). Regional Security in Post-Cold War Horn of Africa. Monograph 178, Nairobi: Institute of Security Studies: 65-95.

Shils, E. (1991). The Virtue of Civil Society. *Government and Opposition*. 26(1): 3-20.

Siefert, M. (2008). "The Ethiopian Intervention in Somalia: The Perspectives" in Bruchhaus, E. and Sommer, M. Hot spot Horn of Africa Revisited: Approaches to Make Sense of Conflict. Berlin: Lit Verlag.

The Change Institute (2008). Study on the Best Practices in Cooperation between Authorities and Civil Society with a view to Prevention and Response to Violent Radicalization. London: TCI

Van Ginkel, B. (2012). Engaging Civil Society in Countering Violent Extremism: Experiences with the UN Global Counter-Terrorism Strategy. The Hague: International Center for Counter-Terrorism.

Van Ginkel, B., Van Deventer, F. and Van Broekhoven, L. (2010). The Role of Civil Society in Implementing the Global UN Counter Terrorism Strategy. The Hague. Cordaid

Wakengela, T. M. (2011). "AMISOM and the Quest for Peace in Somalia" in Sharamo Roba and Mesfin Berouk (eds). Regional Security in Post-Cold War Horn of Africa. Monograph 178, Nairobi: Institute of Security Studies: 377-409.

Wall, K. and Cortright, D. (2011). Towards and Effective and Inclusive Global Counter-Terrorism Policy: Setting Up a Dialogue between Civil Society Organizations and UN Entities. Conference Summary Report. New York: Cordaid.

Mainstreaming Gender in Countering Violent Extremism (CVE): Some Critical Insights for Eastern Africa

Mumo Nzau and Seif Mohamed

Abstract

The actors and processes that shape radicalization into violent extremism and terror are in a constant state of flux. They may be localized, regional or global/systemic in disposition. In equal measure, the global counterterrorism discourse has evolved over time and space to subsume both the state and non-state domains. Nonetheless, these difficult and rather delicate matters and processes- in both academic and policy terms- have tended to be understood and /or operationalized from a masculine perspective. Is this true? What is the Eastern African experience? With these pertinent questions in mind, this paper provides some critical insights into the extent to which gender can effectively be mainstreamed into processes of countering violent extremism (CVE) and terror, with specific reference to the Eastern Africa region. The ultimate aim here is to address gender-specific issues that can be said to have a bearing on CVE actors, structures and processes both in academic and policy terms, from an Eastern Africa perspective. In the final analysis, the discussion should be useful to actors in both policy and operational realms in as far as CVE in Eastern Africa is concerned.

Introduction

Counterterrorism is now a common watchword in the national and regional security discourses. Radicalization into violent extremism and brutal terrorism and how to counter the same is a nuanced phenomenon that continues to permeate both academic and policy circles around the globe today. State authorities, defense and national security scholars and practitioners, as well as community and/or religious leaders among other actors in the Eastern African region are part of this global debate. Over the past decade or so, they too have struggled to secure state security and survival in a region that is increasingly attracting the interest of international terror groups. As it were, while the merchants of terror and anarchy have crafted dangerous but highly attractive narratives in order to win followers, the community of world nations has continued to counter these narratives while preventing and/or forestalling and containing actual/real-time attacks.

As it is therefore, counterterrorism today is best understood as a multifaceted mix of mainly state-led actions and programs aimed at combating terror through military means on one hand (Nzau, 2015), and a broad array of non-militaristic activities aimed at attacking extremist ideologies from various political, economic and socio-cultural standpoints (Aldrich, 2014). Within this complex maze are many actors, some of whom have appeared to take the lead and more or less condition and/or shape the nature and dynamics of the entire process in a certain direction. This way, some actors' role is thought to be peripheral to the entire process. Subsequently, concerns have been raised both in academic and policy circles that there is need to find ingenious ways to bring on board certain actors whose import to the counterterrorism agenda has hitherto been downplayed and/or overlooked (Fenstmacher et al, 2011).

One such challenge has to do with how to better mainstream gender in as far as the dynamics of countering violent extremism and terror are concerned (Smith, 2008). Against this background, this paper provides some critical insights into the extent to which gender can be effectively mainstreamed into the processes of countering violent extremism (CVE) and terror, with specific reference to the Eastern Africa region (Heydemann et al, 2014). The ultimate aim here is to address gender-specific issues that can be said to have a bearing on CVE actors, structures and processes both in academic and policy terms, from an Eastern African perspective. In the final analysis, the discussion should prove incisive to actors at the policy and operational realms as far as CVE in the region is concerned (Goodwin, 2013).

Some Theoretical Considerations

State-centrism in the international system is not a benign occurrence. The realist domain is quite instructive. The international system is anarchical and anarchy is best managed by states. To the realist therefore, under these circumstances the state becomes the ultimate guarantor of the security of its people. Nonetheless, over time, the realist account of state security and survival has been challenged by other theoretical standpoints that seek to take the discourse beyond the classical military-strategic matrix. The body of theoretical arguments that presents these alternative views is generally known as 'critical theories.' For purposes of this discussion, one such approach is that of feminism. It is critical to point out that feminism is a theory that has been variously applied not only in the domain of international security, but also in other debates in the humanities and social sciences (Davies, 2008).

All the same, a feminist case for international security is made from the premise that for the most part, the actors, structures and processes that permeate the international security discourse as well as operational environments operate from a male-gendered looking-glass.

As such, from a feminist point of view, the realist-centered international security discourse is unduly male-dominated, a state of affairs that leaves out critical actors who are in fact victims and/or active participants in matters to do with security and/or insecurity- the female gender. Yet, over and above the general feminist theoretical orientation, the human security paradigm is a broad theoretical argument that in many ways subsumes feminist concerns within it. Here, the case is made for a broader outlook on security in a manner that brings on board more aspects of security e.g. personal security, food security, energy security, water security and the like (Dyer et al, 2007; Fluri, 2009; Munton et al, 2011).

A closer look at these theoretical tenets actually reveals an interesting synergy with the gender argument herein. From an African standpoint, when talking about energy, water, food and personal security and others, it is mothers, sisters, daughters and the women-folk in general who come to mind (Marry, 2009). The women-folk cook, fetch water and firewood; and in a region that has had its own share of brutal civil war, women and children (and by extension, the girl-child) have suffered the brunt of it- torture, abduction, displacement, rape and death (Davies, 2008). As it is, the domestic realm to which they have mostly been relegated is rarely illuminated in the security discourse, a state of affairs that makes them inferior players in security matters (Marchand, 2009). From this perspective, therefore, the ideas presented by the critical theoretical domain of international security do present a worthwhile framework for mainstreaming gender in countering violent extremism and terror in the Eastern African Region.

Gender and Security in Africa: A Brief Retrospective Account

Gender is a socially constructed aspect of social reality. Over time and space, different societies have ascribed gender roles and with them, different social expectations, prestige,

entitlements, rights and privileges. For the most part, pre-colonial African societies were patriarchal, where male-gendered roles took precedence over female-gendered ones. There were, however, matrilineal societies where the case was the reverse. Here, female-gendered social roles (and hence social expectations, prestige, entitlements, rights and privileges) took precedence. On the whole however, societal defense was a male-dominated affair. This was perhaps due to the naturally ascribed roles of women - the duty of childbearing and early childhood custody and care. It was and remains a sacrosanct duty that preserves societal and/or human continuity and survival.

Traditionally, men took up the role of physical defense and overseeing the preservation of overall societal protection, order and security in the face of different natural and human threats that occurred within varied physiological, geographic and socio-cultural realities of the time. Yet, this is not to mean that members of the female gender had no role to play in the entire process. In fact, folklore and contemporary historical evidence has from time to time come to prove that women actually organized and participated in offensive and defensive warfare in many pre-colonial African societies. Some were great warriors of their people while others were part of powerful secret spiritual societies that gathered, analyzed and transmitted vital intelligence in both times of war and peace. Such was the case with the traditional women's secret societies among the Mende people in today's Sierra Leone, West Africa (Shcraeder, 2004).

Colonialism did however have a momentous effect on African sociopolitical organization. Apart from superimposing the European state and its governance style on the indigenous African one, the colonial system destroyed certain matriarchal societal systems, and further unduly reinforced a patriarchal social structure. The colonial expedition in Africa was racial, discriminatory, exploitative and invariably racist to the benefit of a few. It is noteworthy that the colonial enterprise on the African continent met resistance, and this resistance involved several well-known female warriors and/or powerful figures of the time. The likes of Mekatilili wa Menza, who resisted British conscription of young Giriama men to serve the Empire; and Syotune wa Kathukye, the female seer who resisted foreign religious beliefs and confiscation of cattle by colonial authorities among the Akamba of today's Kenya (Hobley, 1971). In 1922, when Harry Thuku was arrested in Nairobi, a brave woman by the name Nyanjiru removed her dress and asked the men to give her their trousers because she wondered why they hesitated to protest and storm Kingsway Police Station (today's Central Police Station) where Harry was detained. She was killed alongside twenty three other people, most of them women, when the colonial police and settlers from the nearby Norfolk Hotel scattered the protest (Roseberg and Nottingham 1966).

Three decades later, many more women were involved in the armed struggle for independence and armed resistance to Apartheid in South Africa. They were actively involved in the Mau Mau armed struggle in Kenya, the Algerian War of independence, the liberation struggles in Southern Africa and the Eritrean war of independence, just to mention but a few. During the Mau Mau struggle, the women were instrumental in conveying messages to the male fighters from one place in the forest to another; as well as transportation of essential supplies such as food and clothing (Presley, 1992). Movements such as the Eritrean People's Liberation Front (EPLF) had a heavy presence of women who were in fact quite active in armed operations. In the Zimbabwean war of independence, women formed an important component of active fighting personnel. During the Ugandan bush war, one Alice Lakwena led a powerful group of rebel fighters in an attempt to capture power in Uganda. The same applied to groups such as FRELIMO, SPLA/M and TPLF among others (Tordoff, 2002).

Yet, while women were active fighters, many more were (and continue to be) victims of

various forms of insecurity on the continent, particularly in the context of civil wars and concomitant ramifications on society- politically, economically, culturally and physiologically. The end of the Cold War ushered in a period of uncertainty and confusion in African political and/or leadership circles. As Cold War superpowers withdrew military and economic aid from the many African political regimes that they had previously 'somewhat blindly' supported for decades, regimes began to collapse and brutal civil wars broke out on the continent- Rwanda, Burundi, Sierra Leone, Liberia, Somalia, the Democratic Republic of the Congo and Western Darfur. Africa somewhat appeared to be a continent left to its own devices as the international community seemingly turned a blind eye to the happenings of the 1990s (Nzau, 2007).

By the time this dark phase was thawing away in the late 1990s and early 2000s, hard lessons and burning concerns had emerged with respect to the place of women (including the girl-child) in the entire regional security-insecurity matrix. It was a grim state of affairs that needed powerful academic/theoretical and policy interventions. Women and young girls had been captured and turned into sex slaves and serfs in various armed non-state outfits and ragtag armies that participated in these conflicts. Rape and other forms of sexual assault had been turned into weapons of war that represent the hallmark of forcing a victim into total submission. It was soon realized that any recipe for African security in the 21st century (be it in the military- strategic context and at national, regional and/ or international level) could not materialize without factoring-in the role and/or place of the female gender (Falola and Njoku, 2010).

Gender and the Repertoires of Terrorism and Counterterrorism

Eastern Africa has had its share of terrorism. Earlier terror attacks in the 1970s and 1980s were few and far apart. The Entebbe hijacking of July 1976 is one such incident. Four years

later, on New Year's Eve in 1980, a bomb exploded at the Norfolk Hotel in Nairobi. Apart from these two incidences, no major terror attack was known in post-independence eastern Africa. Nonetheless, the decade of the 1990s appeared to be ushering-in a new age of ideological fundamentalism. The presence of terror groups such as Al-Qaeda begun to be felt not only in the Middle-East but also in the western world and soon, Africa. The August 7th 1998 bombings on the US Embassies in Kenya and Tanzania, which left over 250 people dead, were a clear sign that the scourge of terrorism was real and active in Eastern Africa (Nzau, 2015).

Three years later, on September 11th 2001, the catastrophic attacks on US soil proved that terrorism had attained global proportions and the only logical thing for the community of world states to do was to counter it by taking the war to them, hence the Global War on Terror (Spalek and Lambert, 2007). Meanwhile, following many years of state collapse and total war in Somalia, by 2005, there were clear signs that international terrorist organizations had an eye on the expansive ungoverned space that the war-torn country availed. By early 2007, an off-shoot of the Islamic Courts Union (ICU), which had links to global terror networks such as Al-Qaeda, had started to be associated with isolated but increasing grenade attacks in Kenya and later Uganda in July 2010. These were accompanied by incursions and kidnappings in the region over this period. Inside Somalia, while an Ethiopian (and later African Union Mission in Somalia- AMISOM) onslaught against the ICU had helped Somalia's newly established transitional federal government (TFG) establish its presence in Mogadishu, Somalia's capital, the terror activities of Al- Shabaab have remained an eye-sore not only to the process of full stabilization of Somalia but also in neighbouring states, more so Kenya (Ibrahim, 2010; Nzau, 2010).

The repertoires of terrorism in Eastern Africa are many and varied. Terror organizations

capitalize on physical harm as a means to achieve psychological and emotional trauma for purposes of influencing the political, economic and/or socio-cultural realms and mind-sets at various levels (individual, state and international) to their advantage or for certain political, religious and/or ideological persuasions that they represent. Over this period, terrorist groups have employed various tactics and means to achieve their goals. The hurling of the grenade; the planting of improvised explosive devices on roads; gun and grenade attacks on soft targets (learning institutions, shopping malls, transportation vehicles, markets, public gatherings, bus termini, villages, hotels and churches) as well as suicide attacks on police and military installations. These attacks have recently been "stepped-up" to involve airborne attacks on transportation planes. True enough, on February 2nd 2016, a Djibouti-bound plane owned by a Somali operator, Daalo Airlines, made an emergency landing back at Mogadishu Airport shortly after take-off, after a bomb exploded in-flight. A week later, Al-Shabaab claimed responsibility (*BBC, Africa*: Accessed on 2nd February 2016).

Governmental and intergovernmental agencies and institutions in the region have in equal measure sought to counter the advances of terrorist groups. The counter-terrorism agenda was for a long time dominated by purely militaristic and legalistic prescriptions that for the most part, aimed at direct prevention and containment of terror attacks. Over time however, there has been the realization that a purely "hard power" approach to counterterrorism is necessary but not sufficient to fully reverse the deep-seated sources of terrorism. In these discourses, the place of the male and female genders in terrorism and counterterrorism processes in the region has remained largely unexplored (Marry, 2009). For starters, terror attacks in the region have been orchestrated by men; and the structures and processes that have been put in place to counter these terrorists are also male-dominated (Marchand, 2009).

Is this state of affairs by design or just mere coincidence? For the most part, the fundamentalist narrative is heavily masculine. The repertoires of Islamic and Muslim identity are truly a masculine affair (Lambert, 2008; Aslam, 2012: 91). It therefore comes as no surprise that in the realm of extreme Islamic terrorist ideology "rewards" such as that of "*seventy-two virgins*" go to men, while there are no such "rewards" for women. It is critical to note that some of these convoluted theological and/or cultural misinterpretations do not represent the Holy Word of God as espoused in the Quran and Sunnah (Aslam, 2012: 92). Yet, it is a fact that women have been accomplices to terror and that they are actively involved in the transportation of terror materials and the gathering and dissemination of information that has been used to facilitate the launching of terror attacks (Carter, 2013).

As such, the role of women is not direct, but rather indirect and/or proxy. The case has been made for instance, of one Samantha Lethwaite also known as the "*White Widow*" who is believed to have been an Al-Qaeda terror mastermind operating mainly in Somalia and Kenya. Others are wives of terror masterminds while others have been lured from their habitual places and/or countries of residence to join terror groups and related movements in places far-off e.g. ISIS in Syria (Carter, 2013). Women also become victims of ostracization especially when they find themselves in hostile settings where and when it is suspected that their spouses are involved in terror activities (Brown, 2008; Lambert, 2008). All in all, terrorism and the efforts to counter it in Eastern Africa, just like in most of the world, are male-gendered and masculine-dominated.

It is critical to note however, that acts of terror are not the preserve of global terror groups such as Al-Qa'ida, ISIS, Al-Shabaab, or Islamic Maghreb. Localized armed non-state groups such as *Interahamwe* in Rwanda, *Mungiki* in Kenya, Lord's Resistance Army (LRA) in

Uganda, *Janjaweed* in Western Darfur and the many *Maji Maji* in the DRC have unleashed untold terror on locals which has been variously categorized not just as acts of genocide and/or war crimes and the like, but also acts of terror. Whether it is Al-Shabaab or *Interahamwe*, each time such groups strike, society bleeds (David, 2005). Women and men alike are the innocent victims of the senseless acts carried out by these groups. It is interesting that just like *Boko Haram*, groups such as ISIS and LRA are known to kidnap young women who are forced into being the fighters' wives and/or sex objects (Ranstorp and Hyllengren, 2013). As such, it is imperative upon scholars and peace practitioners to be aware of the fact that terrorism in Eastern Africa, just like in other parts of the globe, is both inward or localized and outward or regionally and globally-oriented in disposition.

Mainstreaming Gender in Eastern Africa's CVE Agenda: Gains, Challenges and Prospects

In any discussion on security especially in light of the dangers posed by radicalization into violent extremism and terror, the place of the female gender cannot be overlooked. In the African context particularly, women may appear to have been relegated to the domestic sphere, yet the story of radicalization into violent extremism is closer home- in feminine circles. The merchants of radicalization into terrorism are today targeting not only young teenage boys but also young girls and mature women (Smith, 2008: 9). It is no secret that women and young girls are increasingly being recruited to join international extremist and brutally violent terror movements such the Islamic State of Iran and the Levant/Syria (ISIL/ISIS), Al-Qaeda, Boko Haram and Al-Shabaab (Goodwin, 2013; Gowrinathan, 2014). It is noteworthy, for instance, that a substantial number of suicide bombings in Nigeria today have been orchestrated by women (Alao, 2013). The "Chibok Girls" phenomenon is a case in point, in which young girls that had earlier been

kidnapped by Boko Haram have returned from captivity only to carryout suicide attacks in parts of northern Nigeria (Zenn, and Pearson, 2014). It should also be noted that reports have been made in Kenya of young girls having been lured into joining Al-Shabaab in Somalia.

Given these developments, the question of mainstreaming gender in countering violent extremism is gaining currency not only in Eastern Africa but also in the wider UN-led global counterterrorism agenda. These developments have been informed from the premise that terrorism and the processes of countering it, though male-gendered, do not operate in a vacuum (Aldrich, 2012). These processes are shaped, facilitated and otherwise permeated by factors that fall beyond the male-dominated framework they have been traditionally accustomed and/or conditioned to (Aldrich, 2014). The Al-Shabaab and Al-Qaeda operatives and recruiters in the Eastern African region come from somewhere; they have been born and raised in families where there are mothers, grandmothers, aunts, sisters, wives, daughters, female acquaintances and friends. More importantly, the *Sheikhs* (male Islamic religious figures come from certain families (Brown, 2008; Munton et al, 2011). Hence, the piety and religiosity associated with the womenfolk is critical to any formidable CVE (Appleby, 1999).

Further, in the live and/or active terror cells (as well as moribund ones) though dominated and operationalized by male-gendered standard operating procedures, rules, norms and mannerisms, the female gender is subtly but intricately connected (Appleby, 1999). This is another way of saying that in any discussion about the process of countering the processes and narratives that inform radicalization, the place of the female gender cannot be underestimated. The female gender in Eastern Africa, therefore, has a special role to play in dismantling ideologies that justify terrorism by undoing the theological manipulation of historical and political issues that inform it

(Bjorgo, 2011). The womenfolk are in some form of contact (direct or indirect; conscious or unconscious) with the networks and/or individuals that either catalyze or promote violent extremism (Spalek et al, 2011). Mainstreaming gender in CVE is to afford the male and female gender alike the material, moral and institutional grounds and/or abilities to identify individuals who are susceptible to extremist narratives and to help effectively address the grievances that lead them to find extremist ideologies palatable. As such, the sisters, mothers, wives, nieces, daughters and *Sheikahs* are critical towards building community resilience to the narratives and/ or repertoires of radicalization into violent extremism (Plalek, Basia, and Lambert, 2008; Bartlett and Miller, 2010). Thus, the need to make CVE processes in the Eastern African region more participatory, humane and all-encompassing is now and there is no turning back (Briggs, 2010).

Gains

At this juncture, the next key question to ask is: what gains have been made so far in the direction of mainstreaming gender to counter violent extremism in as far as the Eastern African region is concerned? Perhaps, the answer to this question is "not much." Not much has been done to ingrain the role of the female gender, especially the Muslim woman towards challenging extremist narratives; and how to identify and handle the individuals that are purposefully targeted for radicalization into extremism. Despite their dismal participation in as far as CVE is concerned, the untapped potential that lies in the female gender is slowly being realized and/or recognized.

Challenges

It is well known that in a male-dominated societal outlook as the case is in Eastern Africa, mainstreaming gender in CVE cannot materialize without the full cooperation and participation of the male gender (Bartlett and Miller, 2010). The nuances of gender mainstreaming not only

in the broad counterterrorism debate but also in other processes of governance remain shallow. It is critical to note that Eastern Africa is a wider region with separate countries, administrative structures, cultures and subcultures. Hence, the existence of different ecologies of national and intra-national administration and different levels and/or structures of operationalization, all of which should meet the same goal: to ingrain a well-gendered process of countering violent extremism in the wider Eastern Africa region.

This leads to the question: is the region, including Somalia, speaking the same language on this and are states affected the same way? In answer, there is need for well premised inter-state and intra-agency and/or inter-organizational cooperation on the same (Briggs, 2010). As it is, to roll-out certain community-level, sub-regional or regional CVE programs requires the marshaling of a considerable amount of human and material resources in order to support and sustain the goals of CVE programs and processes, as well as to effectively monitor, improve and actualize them. Inter-state cooperation on this front is indeed wanting. Many cases have been reported of terror operatives who have been radicalized in another country, only to launch attacks in neighboring countries and beyond. Eastern Africa cannot therefore tackle these issues in isolation. Best practices and incisive guidance from places yonder (North Africa, Europe, Middle-East and the America's) are of the essence here.

Prospects

Despite the policy, human and material challenges afore-discussed, there is much optimism and promise in the female and male genders, in as far as CVE processes in the region are concerned (Ranstorp and Hyllengren, 2013). This optimism lies in the fact that the society's mothers, grandmothers, sisters, wives, daughters, aunts, and nieces in Muslim and other socio-cultural settings hold the key in raising awareness on the perils

of falling prey to radicalization (Dyer et al, 2007); building resilience against extremist narratives among youths in Eastern Africa; and to working together with parents, teachers, Sheiks and Sheikhas, in providing an enabling environment to handle the radicalized youths and give a promising future to the de-radicalized ones (Bjorgo, 2011). This paper contends that these goals are attainable and prospects in this direction are not hard to imagine.

Conclusion

This paper set out to provide some critical insights in as far as the gains, challenges and prospects of mainstreaming gender in countering violent extremism in the Eastern Africa region is concerned. After assessing the theoretical and policy domains that permeate the debate, the authors delved into an assessment of the place of the female gender in CVE in the region. The study came to the conclusion that there is much promise in the female gender with respect to confronting and reversing the effects of radicalization into violent extremism in Eastern Africa. The problem is not the Islamic faith (Baran, 2005) but rather the convoluted and misinformed cultures and/or subcultures through which the ideologies behind extremist narratives are told in different places and under varied circumstances in the region. It is imperative that more policy efforts, resources and cooperation be invested in mainstreaming gender into CVE in Eastern Africa. This will go a long way into adding value into the process of enhancing peace, justice and security in the region.

REFERENCES

Alao, Abiodun (2013). Islamic Radicalization and Violent Extremism in Nigeria. *Conflict, Security and Development* 13(2): 127-147.

Aldrich, P. D. (2012). Mightier than the Sword: Social Science and Development in Countering Violent Extremism. *Frontiers in Development* 46-49.

Aldrich, P. D. (2014). First Steps towards Hearts and Minds? USAID Countering Violent Extremism Policies in Africa. *Terrorism and Political Violence* 26(33): 523-546.

Appleby, R. S. (1999). The Ambivalence of the Sacred: Religion, Violence and Reconciliation. New York: Rowman and Littlefield Publishers.

Aslam, M. (2012). Gender-Based Explosions: The Nexus between Muslim Masculinities, Jihadist Islamism and Terrorism. Geneva: United Nations University Press.

Baran, Z. (2005). Fighting the War of Ideas. *Foreign Affairs* 68-78.

Bartlett, J. and Miller, C. (2010). The Power of Unreason: Conspiracy Theories, Extremism and Counterterrorism. London: Demos.

Bjorgo, T. (2011). Dreams and Disillusionment: Engagement in Disengagement from Militant Extremist Groups. *Crime, Law and Social Change* 55(44): 277-285.

Briggs, R. (2010). Hearts and Minds and Votes: The Role of Democratic Participation in Countering Terrorism. *Democratization* 17(2): 272-285.

Brown, K. (2008). The Perils of Women's Participation in UK Mosques: The Impact of Securitization Agendas on Identity and Community. *The British Journal of Politics and International Relations* 10(3): 472-491.

Carter, B. (2013). Women and Violent Extremism. GSDRC Helpdesk Research Report.

David, J. Francis (2005). Civil Militia: Africa's Intractable Menace? Burlington, VT: Ashgate Publishing House.

Davies, Lynn. 2008. Gender, Education, Extremism and Security. *Compare* 38(5):611-625.

Dyer, C. et al (2007). Countering Violent Islamic Extremism: A Community Responsibly. *FBI Law Enforcement Bulletin* 76(12): 3-8.

Falola, T. and Njoku, R. C. (2010). War and Peace in Africa. Durham, NC: Carolina Academic Press.

Fenstmacher, L., Todd, L., and Canna, S. (2011). *Countering Violent Extremism: Scientific Methods and Strategies*. Ohio: Air Force Research Lab, Wright Paterson AFB.

Fluri, L. J. (2009). Geopolitics of Gender and Violence 'From Below.' *Political Geography* 28(4):29-265.

Goodwin, M. (2013). The Roots of Extremism: The English Defence League and the Counter-Jihad Challenge. London: Chatham House.

Gowrinathan, N. (2014). The Women of ISIS. *Foreign Affairs* 21-31.

Heydemann, S. and Vice President (2014). Countering Violent Extemism as a Field of Practice. *United States Institute of Peace, State of the Art Insights* (1):1-11.

Hobley, C.W. 1971. AKamba and Other East African Tribes. London: Frank Cass and Co. Ltd.

Ibrahim, M. (2010). Somalia and Global Terrorism: A Growing Connection? *Journal of Contemporary African Studies* 28(3): 283-295.

Lambert, R. (2008). Salafi and Islamist Londoners: Stigmatized Minority Communities Countering Al-Qaida. *Crime, Law and Social Change* 50(1-2):73-89.

Marchand, H. M. (2009). The Future of Gender and Development after 9/11: Insights from Post-Colonial Feminism and Transnationalism. *Third World Quarterly* 30(5): 921-935.

Marry, E. S. (2009). Human Rights and Gender Violence: Translating International Law into Local Justice. Illinois: University of Chicago Press.

Munton, T. et al (2011). *Understanding Vulnerability and Resilience in Individuals to the Influence of Al-Qaida Violent Extremism*. Corydon: Great Britain Home Office.

Nzau, M. (2007). Inter-African Diplomacy and the Crises of the Post-Cold War Period. *East African Journal of Humanities and Sciences* 7(2): 1-17.

Nzau, M. (2010). Counter-Terrorism in the Greater Horn of Africa 2004-2010: Revisiting the Somalia Question. *Journal of Language, Technology and Entrepreneurship in Africa* 2(2):163-177.

Nzau, M. (2015). The Terrorism, Counterterrorism and Human Rights Debate: A Critical Descriptive Appraisal. *Amani Africa Journal* 1(2):73-85.

Plalek, B. and Lambert, R. (2008). Muslim Communities, Counterterrorism and Counter-Radicalization: A Critically Reflective Approach to Engagement. *International Journal of Law Crime and Justice* 36(4): 257-270.

Presley, C.A. (1992). Kikuyu Women, Mau Mau Rebellion and Social Change in Kenya. Boulder, Colorado: Westview Press.

Ranstorp, M. and Hyllengren, P. (2013). Prevention and Violent Extremism in Third World Countries: Measures to Prevent Individuals Joining Armed Groups in Conflict Zones. Stockholm: National Defence College-Sweden: 1-32.

Roseberg, C. G. and Nottingham, J. (1966). The Myth of Mau Mau: Nationalism in Kenya. New York: Praeger.

Schraeder, J. P. (2004). African Politics and Society: A Mosaic of Transformation. Belmont CA: Thomson Wadsworth.

Smith, P. (2008). Prevention of Violent Extremism Project Report. *Criminal Justice* 23-62.

Spalek, B. and Lambert, R. (2007). Terrorism, Counterterrorism and Muslim Community Engagement Post 9/11. *Social Justice and Criminal Justice* 202.

Spalek, B., McDonald, L.Z. and Salwa E. A. (2011). Preventing Religio-Political Extremism amongst Muslim Youth: A Study Exploring Police-Community Partnership. New York: University of Binghamton with AHRC.

Tordoff, W. (2002). Government and Politics in Africa. Indianapolis: Indiana University Press.

Zenn, J. and Pearso, E. (2014). Women, Gender and the Evolving Tactics of Boko Haram. *Journal of Terrorism Research* 5(1):46-57.

Rethinking United Nations Security Council Resolution 1325 in the Age of Terrorism: Insights into the Nigerian Perspective

Grace Atim, Institute for Peace and Conflict Resolution, Ministry of Foreign Affairs, Nigeria.

ABSTRACT

The United Nations Security Council passed Resolution 1325 in 2000, the first- ever Women, Peace and Security Resolution. The Resolution called for the recognition of women as agents of change in conflict prevention and resolution; acknowledged the different impacts of conflict on men and women and the necessity of appropriate protection measures; and underlined the need to include women in peace processes. In the recent past, Nigeria women have faced situations of conflict and insecurity caused by killings, abduction, harassment, rape, unwanted pregnancies, displacement, abduction of school girls in Chibok, floods, the Boko Haram insurgency, etc. In such situations, although the entire population is affected, women and girls bear the brunt. Nevertheless, little attention is paid to how women participate in peace processes. Women continue to be under-represented in these matters as they are only seen as victims in conflict and security situations. For this reason, their experiences are kept private and not the subject of history. This paper seeks to relook at and rethink UNSCR 1325 against the background of the ongoing terrorism in Nigeria, assesses the challenges of non-inclusion of women in peace processes and draws an agenda for Action by way of recommendations.

Introduction

In a world of continuing instability and violence, the participation of women in power structures and their full involvement in all efforts aimed at prevention and resolution of conflicts are essential for maintenance and promotion of peace and security. The marginalization of women during peace and security negotiations and within post-conflict agreements, disarmament, reconstruction and rehabilitation processes, and the importance of increasing their levels of participation are pertinent issues. Peace-building is viewed as an important role for women during post-conflict reconstruction and an opportunity to improve girls' and women's human security. It is in the recognition of this that the United Nations Security Council passed Resolution 1325 in 2000, which was the first ever on women, peace and security. This resolution called for the recognition of women

as agents of change in conflict prevention and resolution; acknowledged the different impacts of conflict on men and women and the necessity of appropriate protection measures; and underlined the need to include women in all aspects of peace processes as a pre-requisite to the attainment of sustainable peace. As Vijaya Lakshmi Pandit points out, "the more we sweat in peace the less we bleed in war."

Following on the heels of UNSCR 1325, six additional Resolutions on Women, Peace and Security have been passed: 1820 in 2008; 1888 in 2009; and 2122 in 2013. They provide the basis for advocacy, education, reform and capacity building on gender equality and women's rights as they relate to peace operations. The UN must have recognized that the national implementation of UNSCR 1325 and other related resolutions

was an important mechanism for furthering the women peace and security agenda. This was why the Security Council presidential statements (2004/40 and 2005/52) called upon member states to implement Resolution 1325 including the development of NAPs or other national level strategies such as peace policies, gender policies or medium to long term development plans and consistently recommended that they accelerate the development of both national and regional action plans for the implementation of UNSCR 1325.

By October 2015, it was 15 years since the adoption of UNSCR 1325 yet, women's specific needs in refugee and IDP camps and in disarmament and reintegration efforts were still largely unmet. Sexual and other forms of gender-based violence and violence against women and girls (VAWG) are still prevalent during and after conflicts, and the overall progress in implementing this critical resolution has remained rather slow and inconsistent. So far, only 42 out of the 192 member states have elaborated and adopted NAPS. Nevertheless, UNSCR 1325 has contributed to increased awareness of the need to address sexual and gender-based violence during armed conflict; increased women's participation in peace processes; and stimulated investment in gender trainings for the security sector. There are still major gaps in its implementation, 15 years on.

A NAP reflects the government's commitment as well as accountability in ensuring the security of women and girls during and after conflicts and in enhancing their active and direct participation in conflict efforts. It is a practical and operational tool for those affected by armed conflicts – women and children (who bear the brunt of wars) and communities who need to be informed about the government's response to their plight as well as assistance programmes available to them.

The Nigeria government adopted her NAP (National Action Plan) in 2013 in compliance with the UNSCR 1325. Nigeria's NAP adopted 5ps namely, Prevention, Participation, Protection, Promotion and Prosecution. Yet, in spite of the adoption of these international and national legal instruments, violence against women and girls especially in situations of conflict continues unabated. This has been evidenced in the Boko Haram insurgency which has caused grave human rights violations, affecting particularly women and girls and remains a growing phenomenon in Nigeria, leading to fundamental questions about the effectiveness of the instrument.

The question however, should not be whether or not the NAP is effective. Instead, what needs to be assessed is: to what extent is the NAP operationalized and applied using available structures and systems with capacity to empower Nigerian women as enshrined in the Resolution? However, many gaps, challenges, and obstacles persist in moving from rhetoric to actual implementation. The majority of peace processes remain exclusive, with either limited or no space for women and girls engagement..

Nigeria has grappled with a plethora of conflicts ranging from insurgency, cattle rustling, resource use exclusion, floods, communal violence, and ethno-religious and political electoral crises that have sapped enormous energy and resources. These conflicts have placed a tremendous burdens on Nigerian communities especially women and children who suffer displacement, loss of families, livelihoods, various forms of gender-based violence and the responsibility of sustaining entire communities. This is compounded by life-long socio-economic and psycho-traumatic consequences.

From a socio-economic dimension, armed conflict particularly the Boko Haram insurgency in the country has had a grave impact. Due to the appalling conditions in IDP camps, women are compelled to take care of the children, wounded, sick, desperate and elderly which limits their participation in economic activities. Women also face problems such

as food insecurity, water, and poor sanitary conditions. Lack of food in IDP Camps forces many women to engage in commercial sex to sustain their lives. Such challenges leave them traumatized with borderline disorders some of which are often not adequately addressed.

In the past two decades, violent conflicts have ravaged the country and Nigerian women have paid a heavy price in terms of unprecedented levels of sexual violence and many unreported assaults, abductions, torture, human trafficking, family separation, involuntary pregnancies and health complications as a result of rape and other sexual abuses. Yet, this year (2016) marks the 15th anniversary of UNSCR 1325, the supposed landmark resolution on women, peace and security which provided that women' and girls' rights be respected by all parties to a conflict. The Nigerian government is not making good on commitments to condemn these abuses, include more women at negotiation tables discussing protection of victims of violence, and bringing to book those responsible.

As broadly understood, the women, peace and security agenda acknowledges the linkages between prevention and participation, protection, prosecution and promotion which are the pillars of sustainable peace and security. The Nigeria case highlights the challenge of getting new security issues afforded adequate attention in the traditional security sphere, suggesting that while an overarching policy framework would be beneficial, it may not address all the challenges inherent in implementing resolutions such as UNSCR 1325.

Panoramic Survey of Terrorism in Nigeria

Legal protection afforded to women in conflict situations has long been criticized for being divorced from the reality of women's experiences. For instance, the Boko Haram insurgency frequently target women and girls for abuse and sexual violence as a tactic in the war in violation of international Law.

Boko Haram has been accused of unleashing a new weapon of war, the girl-child and women suicide bomber, and the recruitment and use of children as child soldiers, in contravention of the UN Security Council Resolution on children and armed conflict (1612), which aggravates the fear that the insurgency has entered a more ruthless phase. The recent trend in the on-going attacks is generally symptomatic of the several deep-rooted socio-cultural practices that shape the perception of women and girls in Nigeria especially in Northern Nigeria. A year ago, over two hundreds girls were abducted from a school in Chibok, a village in Borno, North East Nigeria. However, according to a UNFPA (2015) report, about two hundred and fourteen of the girls who were held in atrocious conditions in Boko Haram's Sambisa forest and were rescued by the Nigerian Army are visibly pregnant. The question is: what is the Nigerian government doing to protect and rehabilitate them either within the framework of the NAP or in compliance with UNSCR 1325, or both?

Hundreds of thousands of women have been displaced and even at the IDP camps, they continue to experience increased insecurity that comes from lack of their traditional support systems. They suffer food insecurity that comes from not having an adequate means of livelihood and from culturally prescribed gender-based violence, rape, unwanted pregnancies, HIV/AIDS and in some cases, legal prohibition from owing land. All sorts of conflicts affecting their socio-economic and political advancement have affected them immensely. Women in Nigeria particularly live in fear of being kidnapped and used as war booty, sex slaves and domestic servants. Additionally, they suffer from post-traumatic stress disorder and psychological consequences. The Boko Haram has placed a tremendous burden on Nigerian communities especially women and girls.

The demographic profile of the Round Four (4) of the Displacement-Tracking Matrix conducted by NEMA in collaboration with the International

Organization for Migration (IOM) showed that 52% of the IDP populations were female and 48% were male. Children of less than 18 years constituted 56% of the IDP population and more than half of them were 5 years old or younger.

The Potentiality of United Nations Security Council Resolution 1325

UNSCR 1325 requires parties in a conflict to respect women's rights and to support their participation in peace negotiations and in post-conflict reconstruction. In a world of continuing instability and violence, the enforcement of legal instruments and mechanisms/approaches is urgently needed. Attempts to empower as well as protect women in conflicts is crucial, but ultimately an approach that 'adds and stirs' fails to challenge how existing legal provisions, combined with gender-blind national and international institutions, have disempowered women and exacerbated the exploitation of gender stereotypes.

Although Resolution 1325 appears to strengthen the norms on women, peace and security, the framework has regularly been criticized for failing to include benchmarks and targets. Experiences to date suggest that, if used at all, SCR 1325 is employed by policy makers in relation to peace keeping and DDR Processes. This narrow application risks shortfalls in implementation by overlooking the resolution's provisions on access to decision-making and violence against women, which are important to the overall objective of the Resolution. It is often perceived as a landmark precisely because it aims at supporting the transition of women from victims to actors. For example, Clause 1 focuses on the subject of decision-making by urging member states to ensure increased representation of women at all levels of national, regional, and international institutions and mechanisms for the prevention, management and resolution of conflicts.

To a certain extent, the language of SCR 1325 attempts to displace the exploitation of gender

stereotypes and helps to develop norms on women's participation in conflict prevention, conflict resolution and peace building processes There is growing recognition that women play a number of roles in conflict, and their participation in informal peace processes is encouraged. However, it is particularly difficult for women to gain access to formal decision-making processes.

It is clear that the relationship between gender and international humanitarian law is problematic. Without any amendment to the Geneva Conventions, the adoption of alternative legal instruments that broach gender in a more sophisticated way and support existing international humanitarian law provisions becomes increasingly important. As evidenced by the shortcomings of SCR 1325 and SCR 1820, the language of security resolutions, though well-intentioned, is limited on how it can aid constructions of gender in armed conflict. Constructions of gender within international humanitarian law are thus constrained without any radical form of redress. In the case of SCR 1325, stronger links need to be established with substantive legal provisions including the Geneva Conventions and respective protocols, the CEDAW and the Rome Statute of the international Criminal Courts.

NAPs as Tools for Implementating United Nations Security Council Resolution 1325

A National Action Plan is a document that details the actions/initiatives that a government will undertake within a given timeframe to meet the obligations of UNSCR 1325. It reflects government commitment as well as accountability in ensuring the security of women and girls during armed conflicts and in enhancing their active and direct participation in conflict prevention and peace building as well as post-conflict efforts. NAP further serves as a useful roadmap in defining the important and distinct roles of implementers of UNSCR 1325.

Before the formulation of a NAP, it is important to raise awareness about UNSCR 1325, which currently is quite low in most countries particularly Nigeria and build political will within each group of stakeholders. Awareness can be done through media campaigns, meetings, workshops, and group discussions.

Nigeria established a NAP with an overall goal of developing a national strategic framework and Plan of Action for the successful implementation of UNSCR 1325, anchored on prevention, participation, protection, prosecution, and promotion. The question which this paper seeks to answer here is: why is it that 15 years after the adoption of UNSCR 1325, only about 22% of member states have launched their NAPs? In addition, how far has Nigeria enforced its NAP? To what extent is the NAP utilized? Lack of political will, lack of technical knowhow, and lack of accountability mechanisms may be answers to these questions.

Nigerian women and girls have since 2009 being faced with challenges of intractable inter-state and flood-induced conflicts. The Boko Haram insurgency occupies front space in the country's challenges on peace and security. This violence has negatively resulted in massive displacement, abductions, and dehumanization of women and girls. Sadly, women and children are being subjected to sexual abuse, forced marriage, forced pregnancy, maiming and killing. Adequate protection measures are vital in ensuring the safety of women and children.

Unfortunately, the Nigerian government has not made encouraging efforts at ensuring programs respond to the immediate and long- term needs of women and children before, during and after the Boko Haram insurgency, in compliance with UNSCR 1325 despite adoption of a NAP. Survivors of Boko Haram attacks received virtually no necessary psychosocial and medical services, and none of the rape survivors interviewed by Human Rights Watch had any information about how and where to access post-rape care.

UNSCR 1325 implementation requires redefining peace and security from a holistic gender perspective. This requires concrete actions such as investing in disarmament and arms control, with effective women's participation, conflict prevention and non-violent conflict resolution.

The future of UNSC Resolution 1325 in Nigeria

During the 15 years UNSCR 1325 has existed, more than 40 National Action Plans (NAPs) have been developed for national implementation of the Resolution, including that of Nigeria. UNSCR 1325 has contributed to increased awareness of the need to address sexual and gender-based violence during armed conflict, increased women's participation in peace processes, and led to increased investment in gender training for the security sector.

In spite of the shortcomings of UNSCR 1325, it nonetheless marks a major turning point in raising global attention to and dialogue about women civilians who disproportionately suffer during war and conflict as well as the neglected role of women in conflict prevention and resolution. It has prompted the adoption of many national as well as regional Action Plans, and it has led to a phase of continued advocacy for changing practices in the United Nations itself (Cohn, 2008; Swaine 2009).

In Nigeria however, protection of women and girls during violence and other crises has appeared to be particularly challenging. What concrete measures has the government put in place to operationalize the NAP adopted since 2013 in compliance with UNSCR 1325? The Boko Haram insurgency has rendered hundreds of thousands of Nigerian women and girls victims and survivors of horrible atrocities and injustices in the conflict. For this reason, this ground-breaking resolution requires any parties in armed conflict to protect women and promote their participation in peace negotiations and post-conflict

reconstruction. It recognizes that women and girls are particularly affected in crises, armed conflict, and declares that their participation at all levels of prevention, resolution, reconstruction, and peacekeeping is essential to achieving sustained peace and security. Through the Resolution 1325, the Security Council calls upon governments and other parties to take steps toward the implementation of the eighteen actions it outlines concerning women's participation, protection, prevention, relief and recovery in conflict and post-conflict settings around the world.

Reasons for the above are not far- fetched. Sadly, the Nigerian society is patriarchal in nature and reinforced by religious and cultural norms, which this deepens women subordination and prevents them from participating in decision-making and peace processes in the society. Also, lack of capacity and adequate knowledge of international instruments that support women inclusion in peace- building have not allowed for meaningful intervention of women in conflicts.

Therefore, implementation of UNSCR 1325 requires redefining peace and security from a holistic gender-neutral or inclusive perspective that goes beyond what has hitherto been tried. This requires concrete actions such as investing in disarmament and arms control, with effective women's participation in conflict prevention and non-violent conflict resolution.

Conclusion

This article sought to assess the extent to which Nigeria's stated commitment to women, peace, and security principles has translated into meaningful action on ground. It found out that in recent times, insecurity in the Nigeria especially the northern region has claimed many lives and properties and has become an international embarrassment. Women are caught up in the web of these conflicts because they form the bulk of casualties, as widows, and mothers, bush wives, cooks, etc. Therefore,

inclusive instruments of conflict resolution have to be employed to accommodate the excluded. It is important to recognize the multiple sources of capacity women can bring to bear. It is not enough to have laws in place, they should be enforced. The implementation of the National Action Plan for the actualization of UNSCR 1325 is quite apt but needs to be followed up with holistic approach that includes women and is gender-sensitive.

Recommendations

Having examined the extent of Nigeria's compliance with UNSCR 1325, it is pertinent to recommend the need to reclaim the Resolution from a feminist perspective, so that it can become a tool to redefine society's peace and security paradigm, so that women are not only around tables in post-conflict and peace negotiations, but in leadership positions to help avoid conflict in the first place.

- Efforts should be geared towards training and capacity building on SCR 1325 to enhance skills and capacities of women, peace and security at community and national levels. Awareness should be raised to inform the general populace on the existence of the resolution and its relevance to national peace and security;

- Research/ studies should be carried out to fully investigate the gender dimensions in the Boko Haram insurgency in order to generate evidence-based data to inform policy. This will unearth salient issues and bring to the fore specific and detailed gendered experiences of women and girls in such distressing and traumatizing circumstances and this would provide empirical disaggregated data that could be used to help victims and survivors cope.

- The Federal Government should put in place a monitoring and evaluation mechanism to assess the progress of the NAP implementation to ensure full

participation of women in all peace processes in Nigeria;

- Integrate UNSCRs on women, peace, and security into anti-terrorism strategies to provide options on protecting and involving women in policy development and implementation;

- There is an urgent need to establish a tracing system to reunite separated families (using various tools) such as phones, RCM (Red Crossing Messages), Tracing Requests and UAC (unaccompanied children);

- Government should assist conflict-prone communities to establish Conflict Action Response Teams (CART) and Disaster Action Response Teams (DART) and facilitate connection and links with formal government agencies including police formations, civil defense and state emergencies management to provide swift early warning, protection and response; and

- The Federal Government should make prosecution of crimes against women and girls non-negotiable in peace agreements, with the support of women mediators.

REFERENCES

Grace Atim, Women and Armed Conflict in North-central Nigeria.in Women and Development in North Central Nigeria Vol. 1

West African Network for Peacebuilding (2012), A Guide : Development, and implantation of National Action Plans on UNSCR1325 and Related Resolutions, Accra Ghana WANEP, p.6.

Pandit, Lakshmi Vijaya, President of 62nd session, General Assembly of United Nations Peacedirect.org www.peacedirect.org/landing-page/peace-Quotes

Women Peacemakers Programme (2014), Policy Brief: Gender and Militarism, p.g. 1

Nigeria (2013), National Action Plan: National Action Plan for the Implementation of UNSCR 1325 and Related Resolutions in Nigeria Abuja; FMWA and SA p.13.

Federal Ministry of Women Affairs and Social Development (2011). National Plan for the Implementation of UNSCR 1325 and Related Resolutions in Nigeria.

Cohn, M. (2008). Swaire, 2009. "Mainstreaming Gender in UN Security Policy: A Path to Political Transformation?" in S.M Rai and G. Waulen (eds). Global Governance: Feminist Perspective (pp. 85-206). Basingstoke: Palgrave MacMillan.

Women Peacemakers Programme. Policy Brief, Gender and Militarism p.3

''Our Rights are Fundamental to Peace" Slow Implementation of UN Security Council Resolution 1325 (2000). Deries the Rights of Women and Girls in Armed Conflict. *Human Rights Watch* p.11.

Women Peacemakers Programme Policy Brief: Gender and Militarism p.3

Development and Implementation of National Action Plans on UNSCR 1325 and Related Resolutions: A Guideline. WANEP p.8

Amy Barrow (Asst Prof, Faculty of Law of the Chinese University, Hong Kong) UN Security Council Resolution 1325 and 1820: Constructing Gender in armed conflict and humanitarian law. *International Review of the Red Cross* 92 (877): 234

Sidi, M.S. (2015). The Humanitarian Consequences of the Boko Haram Insurgency in Nigeria. A Paper Presented at the Occasion of the African Union Regional Consultative Meeting for West African Region for the Development of the Common African Position on the World Humanitarian Day Summit, Istanbul, Turkey, 2016, held at Abuja, 26-28 August, 2015. Available in *Daily Trust*, Tuesday, September 1, 2015, p. 29

Amy Barrow (2009). (Its] Like a Rubber Band: Assessing SC Res. 1325 as a Gender Mainstreaming Process. *International Journal of Law in Context* 5 (1):

National Action Plan for Implementation of UNSCR 1325 and Related Resolutions in Nigeria, p.5.

Butler, M. 'Why were Women's Groups excluded from meeting on Nigerian Security?; The *Guardian* (UK), 20 June 2014, http://www.theguardian.com

UNFPA, *Vanguard*, Monday September 7, 2015. ''Boko Haram: 214 rescued girls pregnant. P.1

Catherine N. Niarchos (1995). Women, War and Rape: Challenges facing the International Tribunal for the Former Yugoslavia. Human Rights Quarterly 17(4) p. 654.

The Securitization of Global Health and the threat of Bioterrorism: Could Ebola be Weaponised?

Philip Emase, Hekima Institute of Peace Studies and International Relations (HIPSIR)

Abstract

This paper explores the risk of bioterrorism with particular reference to the Ebola virus in Africa considering the active transnational terrorist groups on the continent. Using the statist, globalist and human rights approaches, the paper examines the global right to health and notes the increasing propensity of developed nations to frame Emerging Infectious Diseases, (EIDs) as security threats and consequently focus their response on protecting their national security and economic interests from the spread of these EIDs. The 2014-2015 Ebola Crisis in West Africa illustrates the current state of the global health system with reference to EIDs. This paper considers the perils of this securitized approach to global health, which could potentially provide a slip road for terrorist groups to take advantage of the porous borders and fragile health systems to procure the Ebola virus for bioterrorist purposes in the event of another outbreak in Africa. Considering the ease with which EIDs can spread across borders in today's globalized world, the writer vouches for a collective investment in robust health care systems globally, especially in fragile countries where EID outbreaks easily get out of hand and could fall into the hands of terrorist groups. Ensuring effective public health globally would, after all, benefit all nations, and its dividends would include better health, security and enhanced trade for the entire global community.

Introduction

The accelerated pace of globalization, spurred by increased international trade and growing migration, has blurred sovereign borders more decidedly than ever before in human history. Holm and Sørensen (as cited in Lia, 2010:18) define globalization as "the intensification of economic, political, social and cultural relations across borders." The spread of globalization has been greatly helped by both the establishment of global financial markets following the end of the Cold War, as well as the rapid technological developments that have enabled transport and telecommunications industries at the global level (p. 18). The overall outcome has been increased interplay between domestic and foreign affairs (Katz, Kornblet, Arnold, Lief and Fischer, 2011: 504), effectively inclining states towards closer cooperation and a more peaceful coexistence in their shared determination to maintain a state of equilibrium that favours both their domestic and international prospects.

Lia (2010), however, senses a dichotomy in the outcome of globalization, arguing that it has stretched beyond its basal economic underpinnings to straddle the long established cultures of the various peoples of the world. In Lia's view, globalization has on the one hand created a global culture of sorts, while on the other stoking a backlash of countercultures as exemplified by the resurgence of Islamic militancy and the rise of anti-globalization movements in various parts of the world (p. 19). Some of the groups at the forefront of the anti-globalization drive have adapted terrorist tactics or have gone ahead to fashion themselves into outright terrorist organizations.

In his prognosis on the future of terrorism, Lia postulates that incidences of mass-casualty terrorism are likely to remain problematic because the motivations of many actors behind these terrorist groups go beyond a mere disdain for the assault of globalization on their cultures. Lia asserts that a great many of these actors are motivated systemic, multi-level and structural factors, which he summarizes as "an exclusionist and interventionist world order, weak transnational states, non-state actors in global politics, globalization of organized crime, privatization of policing and warfare, Middle East oil dependence, migration and ethnic heterogenization of Western societies, growing information interconnectedness and proliferation of deadly technologies" (Lia, 2010: 187). Lia's perspective provides an opportunity to contemplate why the resurgence of mass-scale terrorism has become a significant consequence of globalization.

For a long time, transnational terrorism was associated with the Middle East, Europe and parts of Asia (Davis, 2010: 139). This is not to mean that terrorism is a new phenomenon in Africa. Terrorism has long existed in Africa as well, particularly during the Cold War era and its messy aftermath. Davis (2010) cites the terrorist campaigns of the various armed groups in the Eastern Democratic Republic of Congo (DRC), the warlords in post-Siad Barre Somalia, and rebel groups such as the Revolutionary United Front (RUF) in Sierra Leone and the Lord's Resistance Army (LRA) in Uganda (p. 134). The difference is that while terrorism in Africa was largely domestic in nature—typically meted out by armed groups on civilian populations within their home states for political or other gain—what has changed is that Africa has in recent decades come to play a central role in international terrorism (p. 133).

Lia (2010) forebodes that just as the global theatres of transnational terrorism are likely to keep changing, the trends, patterns and tools of terrorism are similarly likely to keep mutating (p. 187). The use of biological weapons is one possible trend that could emerge from the changing tactics of terror that could occur. Of critical interest is the potential use of Emerging Infectious Diseases (EIDs) such as Ebola in bioterrorism.

One might argue that the notion of organized bioterrorism is far-fetched but considering the presence of the "global health" approach adopted in the 1990s post-Cold War period, states recognized that in the newly globalized world, a consequential health situation in one country could easily impact on another state beyond its borders (Kerouedan, 2013, as cited in Ventura, 2016). The "global health" approach has been cited a lot in the face of EIDs such as HIV-AIDS, Anthrax, Influenza 'A' (H1N1), poliovirus, and more recently, Ebola and Zika. The easy seep of these EIDs beyond national borders has confirmed that infectious diseases pose an existential threat in the epoch of the global village.

The potential 'weaponization' of Ebola is of particular concern because all recorded outbreaks of the virus have occurred in African states that are geographically close to countries in which active transnational terrorist groups thrive. Secondly, despite the much-touted interlink between health and foreign policy at the global level, many developed states respond to EID outbreaks from a national security perspective, their priority being to prevent the outbreak from leaving its region of origin. Many African states however lack the robust health facilities required to effectively contain EID outbreaks domestically, and most have porous borders that terrorist groups could easily infiltrate in attempts to obtain the Ebola virus as an addition to their terror arsenals. This article examines the possible 'weaponization' of Ebola by terrorists and terrorist groups and the vulnerability in the governance of global health that renders Africa unprepared for a vanguard against the possibility of Ebola bioterrorism.

Current Approaches to Global Health: Statist, Globalist and Human Rights Perspectives

Although the threat posed by EIDs has motivated the international community to develop closer cooperation on health issues at the global level, Katz et al (2011: 504) note that in practice, most developed states tend to frame global health within the context of their national security and trade interests rather than a universal priority in its own right. This framing has somewhat kept the global health agenda on the back burner, subordinate to the national security and economic interests of developed nations (Bustreo and Doebbler, 2010: 54). As such, global health is routinely perceived by foreign policy decision makers in the developed world as a luxury to be addressed only when it does not compete with other "more important" foreign policy priorities (p. 38).

Davies (2010) postulates two broad perspectives on global health within the international system, which she terms the "statist" and "globalist" approaches (p. 1170). In Davies's theorization, the statist perspective places the state as its principal focus, and considers global health a national security element within the state's defence and foreign policy (p. 1170). The state only takes action on global health situations that directly affect its economic, political or military interests (pp. 1170-1171). Although such action, when taken, most often involves cooperation at the international level, the statist approach places priority on the national security of the state (pp. 1170-1171). The globalist perspective on the other hand places the health needs of the individual at its core, then, takes into account the role that various global actors and structures can play in addressing matters of global health.

Although the role of the state still remains critical in the globalist perspective, globalists perceive the state as just one among a raft of actors that may include international organizations, multinational corporations and pharmaceutical companies (pp. 1171; 1189).

Davies however clarifies that both the statist and globalist approaches perceive EIDs such as HIV-AIDS, Ebola and the Zika Virus as security threats (p. 1189). The key difference between the two paradigms is that while statists tend to rationalize the protection of their citizens and interests by deliberately securitizing certain infectious diseases, globalists consider any infectious disease a problem in its own right, without considering the nationalities of the afflicted populations (p. 1189).

Bustreo and Doebbler (2010) make a cogent case for a human rights approach, which they are convinced will help compel states to make global health a foreign policy imperative (p. 47). Their argument is based on the little-discussed fact that the "right to health" is a well-established concept within international law, codified in various legally binding documents that have been ratified by most UN and WHO member countries. The concept is explicit in both the Universal Declaration of Human Rights (UDHR) and the WHO Constitution, as well as in various other international covenants and treaties. Article 25 of the (UDHR) states that "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family...," and further stresses that this right is particularly of avail "…in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control" (UN, 1948). The preamble to the WHO Constitution closely affirms that the "enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being" (WHO, 1946).

These two seminal documents have over time been backed by additional covenants and treaties. Among these are the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of

the Child; the International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries; the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; and the Convention on the Rights of Persons with Disabilities (Bustreo and Doebbler, 2010: 50-51).

Even the most cursory study of these covenants and treaties confirms that the right to health is well established in international law. Bustreo and Doebbler (2010) further note that developed states are required, under international law, to provide the necessary resources that will ensure the achievement of the right to health both domestically and internationally (p. 52). This obligation is hardly mentioned by politicians, diplomats and foreign policy decision makers, and individual states as such retain the discretion to decide whether or not to take action in global health emergencies (p. 50). The result is that an estimated 30 percent of the world's population does not have access to life-saving medication (Schroeder, 2013: 205), let alone primary healthcare.

Dealing more specifically with the matter of biological weapons is the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, better known as the Biological Weapons Convention (BWC) or the Biological and Toxin Weapons Convention (BTWC). The Convention was developed and ratified in Geneva by 175 UN Member States. It was intended to be an important instrument for addressing the proliferation of weapons of mass destruction by prohibiting the "development, production, acquisition, transfer, retention, stockpiling and use of biological and toxin weapons" (UN, 1972). Despite the broad ratification of the Convention, several signatory states continued researching and producing biological agents, even as recently as the 1980s (Lim, Simpson, Kearns and Kramer, 2005: 584). Even worse, recent years have seen an increasing number

of non-state (and particularly terrorist) actors attempting to obtain and offensively utilize biological weapons (Lim et al, 2005: 584).

Scholars like Bustreo and Doebbler appear to suggest that making global health a foreign policy imperative at the global level will help bring the concept of universal health care closer to reality. However, the Westphalian tradition gives states the right to choose their courses of action (or inaction) as rational actors within the anarchical international system. A second challenge is the fact that not all sovereign states have ratified all the international agreements. For instance, the United States, Cuba and South Africa have not ratified the International Covenant on Economic, Social and Cultural Rights and as such have no obligation to fulfil its provisions (Schroeder, 2013: 207).

Who, then, is responsible for ensuring the realization of universal health care? Within the sovereignty paradigm, the provision of health services is naturally the obligation of the state. This is however not automatically possible in the case of fragile states, some of which lack the capacity to provide adequate health systems for their citizens, as was the case of Guinea, Liberia and Sierra Leone during the 2014-2015 Ebola Crisis (Harmon et al, 2015: 6). Schroeder (2013) supports the view that all governments have the obligation to ensure access to adequate health services for their citizens, but asserts that developed countries have the additional obligation of providing international assistance to less endowed countries (p. 206). Over the years, there have also been calls on Non-Governmental Organizations (NGOs), pharmaceutical companies and even the world's highly affluent minority to make a bigger contribution towards global health. Schroeder (2013) singles out and commends the immense role played by NGOs in helping the estimated ten million people who lack access to life-saving medicines, but offers a reminder that the work of health sector NGOs is a voluntary commitment rather a stringent obligation (pp. 211-212).

There have been even more intense demands on the pharmaceutical industry to commit more resources towards global health. For instance, a 1998 editorial in the influential medical journal, *The Lancet*, asserted that while the obligation to improve access to essential medicines lies with the state, the pharmaceutical industry must share this responsibility with the state (The Lancet, 1998). The most explicit demand from the international community came with the adoption of the Millennium Development Goals (MDGs) in 2000. Target E of MDG 8 called on governments "in cooperation with pharmaceutical companies, [to] provide affordable essential drugs in developing countries" (Schroeder, 2013: 212-213). Even though the private sector was generally mentioned in several other MDGs, only the pharmaceutical industry was called upon in such explicit manner (p. 213). Proponents of a broader obligation for the pharmaceuticals, such as Pogge (2001), argue that the existing international intellectual property rights structure favours the interests of the pharmaceutical industry and the affluent over those of the poor majority (2001: 14). Pogge further postulates that most citizens of developing countries are often disadvantaged right from birth, and have to endure an oppressive life under the rule of governments that are more inclined towards satisfying the interests of powerful foreign agents [such as the pharmaceutical companies and the affluent] (Pogge, 2001, p. 14).

But while the pharmaceutical industry plays an important role in innovating, developing and producing drugs and services that improve the quality of human life (Schroeder (2013: 212), their fundamental profit orientation and the dictates of the free market easily offer them the wherewithal to sidestep this suggested obligation, especially in fragile countries with a low-profit potential. Neither would it be reasonable to count on affluent people to help the less fortunate access the health care they require. Schroeder (2013) points out that the

contribution of the affluent is more contingent on beneficence than obligation (pp. 208 - 210).

The foregoing discussion reveals a gap in the commitment of the international community to the provision of robust health care at the global level. This gap, which may appear benign, actually increases the prospect of EID outbreaks getting out of control, or even worse, being used as tools of bioterrorism.

Ebola, Globalization and the Threat of Bioterrorism

Ryan (2008) describes bioterrorism as the calculated release of any biological organism, virus, substance or product with the intention of causing death, disease or other biological malfunction in humans, animals, plants or other living things, in most cases for political or other ends (Ryan, 2008: 276-277). Although various forms of biological arsenal have been utilized in human warfare for millennia, Ryan asserts that only a few infectious pathogens are easy for present-day terrorists to procure and disperse and these include zoonoses such as the Ebola virus (p. 276).

It is unfortunate that the likelihood of bioterrorism has largely been downplayed in contemporary world politics and international security (Henderson, 1998: 488). There was some considerable attention towards the possibility of bioterrorist attack focusing mainly on anthrax and smallpox following the September 11, 2001, attacks by Al Qaeda on the U.S. (p. 489), but the prevailing belief has been that the chances of such an attack are low. Maras and Miranda (2016) caution against this line of thought, reminding the world of the existence of states and non-state actors that would be willing to inflict mass devastation using biological, chemical, nuclear and radiological weapons (p. 73). A few fairly recent events provide a palpable reminder of the potential scale of devastation that biological weapons could inflict if the world remained unprepared for the possible threat of bioterrorism. One occurred at

a Soviet bioweapons facility in 1979, when the accidental release of anthrax in aerosol form led to 66 deaths according to official reports (Henderson, 1998: 491). In 1995, Iraq admitted to having produced and deployed weapons containing anthrax and *botulinum toxin* during the Gulf War (p. 488). That same year (1995), the Japanese religious doomsday cult, Aum Shinrikyo, released Sarin nerve gas onto a Tokyo subway, leading to the death of 12 people (Tucker, 1999: 498). Subsequent investigations revealed that the cult had elaborate plans to develop weapons for bioterrorism in their laboratory, even making a mission to the DRC in 1992, in search of samples of the Ebola virus for use in the development of a bioterrorism weapon (Henderson, 1998: 488).

Ebola is a severe, often fatal viral illness that develops rapidly, on average taking anywhere between 2 and 21 days between infection and the manifestation of symptoms (WHO, 2016). The virus was first identified in two simultaneous outbreaks that occurred in 1976, one at a village near the Ebola River in the DRC (then the Republic of Zaire) and the other one across the border in what is now Nzara, South Sudan (then part of the Republic of Sudan) (WHO, 2016). Since then, scientists have identified five sub-species of the Ebola virus. These are the *Bundibugyo ebolavirus*, the *Reston ebolavirus*, the *Sudan ebolavirus*, the *Taï Forest ebolavirus* and the *Zaire ebolavirus* (Passi, Sharma, Dutta, Dudeja and Sharma, 2015). Each of these five species has its own pathogenic characteristics, and they differ in their scale of impact in terms of human infection and mortality rates (Maras and Miranda, 2016: 72). Of the five subspecies, the *Zaire ebolavirus* is the most aggressive (Passi et al, 2016: 1). Deaths from Ebola infection average about 50 percent (WHO, 2016), although fatalities as high as 90 percent have been recorded in past outbreaks of the *Zaire ebolavirus* (Passi et al, 2016: 1).

The Ebola virus can be contracted through contact with fruit bats of the *Pteropodidae* family, believed to be natural carriers of the virus (WHO, 2016). The primary leap to human beings is believed to occur through contact with infected fruit bats; contact with infected apes; and consumption of "bush meat" from infected wild game (WHO, 2016). Direct human-to-human transmission of Ebola can occur through sexual contact or other direct contact with bodily fluids of an infected person, but Ebola is also easily contracted from surfaces and materials such as clothes and beddings used by infected persons (WHO, 2016).

The first diagnosis of Ebola in the 2014-2015 out-break in West Africa was that of a two-year-old boy in Meliandou, a small village in Guinea, in December 2013 (Saéz et al, 2014: 18). Epidemiologists suggest that the virus emanated from fruit bats mentioned above in a single zoonotic transmission event to the boy (Saéz et al, 2014: 18). From this small village in Guinea, the virus subsequently spread, mainly through human-to-human transmission, across land borders to Sierra Leone and Liberia (WHO, 2016) and additionally infected 19 Nigerian nationals, seven Malians, four Americans, one Senegalese, one Spaniard, one Briton and one Italian (CDC, 2016). Within the course of one year, there were 17,145 cases and 6,070 deaths as of December 2014 (Saéz et al, 2014). Alarmed at the rapidity of transmission and the high mortality rate, health experts warned of the real possibility of the Ebola virus spreading throughout the world before an effective vaccine, treatment, or cure could be developed and distributed widely enough to contain it (Saxena and Gomes, 2016: 96)..

It is worth noting that all recorded outbreaks of the Ebola virus have occurred close to African countries where active transnational terrorist groups operate. In West Africa, Boko Haram, a militant Islamist group from Nigeria, declared allegiance to the Islamic State in Iraq and the Levant (variously referred to as ISIL, ISIS or Daesh), joining the existing militant groups from Egypt, Libya, Algeria, Morocco and Tunisia that had already previously pledged allegiance to ISIL. Initially formed in opposition

to Western education and culture in Northern Nigeria, Boko Haram has now become a threat to the national security of Cameroon, Chad and Niger (Ewi, 2015). ISIL has embraced Boko Haram and declared that its ambitions to create a caliphate will now include a Western Africa province (Ewi, 2015). In addition to Boko Haram, there is also al-Qaeda in the Islamic Maghreb (AQIM) and Al-Murabitun in North Africa, as well as the Al-Qaeda-affiliated Somali militant group, Al Shabaab, in Eastern Africa (Maras and Miranda, 2016: 74). It appears quite possible that such groups such as Boko Haram, al-Qaeda in the Islamic Maghreb (AQIM), Al-Murabitun and Al Shabaab could attempt to obtain and use the Ebola virus from these regions as a tool of bioterrorism (Maras and Miranda, 2016: 74).

According to Henderson, the detection and prevention of bioterrorist attack would be quite difficult, considering the ready availability of recipes for biological weapons online and the easy interconnectedness provided by social media and the internet in general (Henderson, 1998: 489). Recognizing the reality of the threat, Henderson contends that the first line of defence against any bioterrorist attack would be health workers in hospital emergency rooms (p. 489). Given that all African countries that have suffered outbreaks of the Ebola virus are fragile and have weak public health facilities, the looming question is whether the world is ready to contain an Ebola bioterrorist attack were it to occur on a mass scale. More important is the willingness of developed countries in preventing EID outbreaks from leaving their regions of origin. This was the case during the 2014-2015 Ebola Outbreak in West Africa, which is discussed in greater detail in the next section.

The Securitized Response to the 2014-2015 Ebola Crisis in West Africa

The 2014-2015 out-break was the largest and most intricate in the history of the Ebola virus (Laverack and Manoncourt, 2015: 1).

It claimed an estimated 11,310 lives out of the 28,616 recorded infections (CDC, 2016; WHO, 2016), exposing both the frailty of the global health system and the indifference of developed nations to the health plight of the citizens of developing countries (Harmon, Gostin, Grant, Gillies and Laurie, 2015: 17). Ventura (2016) argues that the Ebola crisis in West Africa demonstrated a new trend towards the securitization of international responses to health emergencies, a pattern she also observed in the 2016 Zika virus outbreak in the Americas and the Pacific. (p. 1). In both the Ebola and Zika out-breaks, Ventura (2016) notes that they were socially constructed as security threats (p. 1). Bustreo and Doebbler (2010) argue that framing health emergencies through the security lens inevitably shifts the focus towards halting the spread of the EID as an immediate threat, rather than addressing the presence and danger of long-existing diseases that afflict people in developing countries which impedes the improvement of global health on a broader scale (p. 48). This was certainly the case in the 2014-2015 Ebola crisis in West Africa.

The international community was slow to respond to the Ebola outbreak in West Africa, and when it eventually did respond, the priority was to contain the epidemic within the three countries it was already ravaging, rather than to accelerate the search for long-term solutions (Harmon et al, 2015: 6). Initial response to the Ebola outbreak was left to the national governments of Guinea, Liberia and Sierra Leone and to NGOs (Laverack and Manoncourt, 2015: 2). Working in concert with a number of NGOs, the three states, all of which had fragile and outstretched health care systems, could only muster a feeble response that allowed the outbreak to metamorphose into a much larger threat with global implications.

The international community's response only gained steam after several American medical workers contracted Ebola (Friedman, 2014).

By the time the World Health Organization declared the Ebola outbreak a Public Health Emergency of International Concern (PHEIC) in August 2015 and over 3,000 cases had been confirmed in Guinea, Liberia and Sierra Leone (Ventura, 2016). Moreover, the rationale for the declaration of a PHEIC does not favour developing countries with weak health systems, such as the three most affected. The severity of a disease or level of fatalities it inflicts does not determine the declaration of a PHEIC; instead it is the potential international scope of its reach that determines whether a PHEIC can be declared (Ventura, 2016: 2).

Despite declaring Ebola a PHEIC, numerous challenges faced the WHO's response strategy. In September 2014, UN Secretary-General declared the Ebola outbreak a threat to world peace and security, and with the endorsement of the UN Security Council and the General Assembly, announced the creation of a UN Mission for Ebola Emergency Response (UNMEER), the first-ever emergency health mission since the formation of the UN in 1945 (Ventura, 2016: 1). The creation of UNMEER sidelined the WHO and weakened its fundamental leadership role in health matters within the UN system (Harmon et al, 2015: 7). This attrition of the WHO's leadership in turn undermined the established practice of multilateralism, paving the way for the subsequent unilateral efforts by the United States and other global powers that were keener to respond to Ebola as a security threat (Ventura, 2016: 1). Secondly, the WHO needed to bring key stakeholders to an agreement, and these include WHO member states, the pharmaceutical industry and willing participants in public–private partnerships to invest in the expedited development of Ebola drugs and vaccines (Saxena and Gomes, 2016: 96). The task of carrying out emergency medical research and clinical trials in the midst of an epidemic appeared doomed right from the beginning, considering that Ebola was already ravaging countries with no experience of conducting clinical trials (p. 97).

It appears from the foregoing that the priority for the developed nations was to prevent Ebola from leaving its epicentres, without regard for the concept of the right to health. Guided by the securitization of the Ebola outbreak, the developed nations found little attraction in confronting the causes of Ebola and other EIDs or in addressing the social determinants, high poverty levels and inequalities that exacerbate these impediments to universal access to health (Ventura, 2016). The securitization of the 2014-2015 Ebola crisis in West Africa was perhaps best illustrated by the selective policy of evacuating health workers and Ebola patients, favouring those from developed nations and neglecting their West African colleagues. Health workers came from many different countries to work alongside local health workers on the frontline of the Ebola response in the three afflicted countries. Over 900 of these health care workers contracted Ebola, a majority of them Africans (World Bank, 2015). Western health workers who contracted Ebola were quickly evacuated to treatment facilities in Europe or the US, where they received treatment using innovative methods and experimental drugs such as ZMapp (Saxena and Gomes, 2016: 96).

Out of the seven reported Ebola infections among Western nationals (four Americans, and one case each in Spain, Italy and the United Kingdom), only one death occurred, yet these cases were given more prominence than the 11,316 deaths that occurred to indigenous Africans (Ventura, 2016: 2). Despite decades of lofty rhetoric on the international stage about the universality of human rights, which includes the right to health, infected health workers and citizens from Guinea, Liberia and Sierra Leone had no such lifeline (Friedman, 2014). Hundreds of West African healthcare workers who contracted Ebola were not evacuated, leading to a 57 percent fatality rate among them (WHO, 2016). The three countries, all of which had some of the lowest doctor-to-patient ratios in the world even before the Ebola Outbreak, lost about

50 percent of their doctors and nurses on the Ebola frontline (Harmon et al, 2015: 8-9). Although it is understandable that the WHO may not have had the capacity to evacuate every health worker that contracted Ebola, ethicists have criticized the organization's selective willingness to evacuate foreign health workers (St. Fleur, 2014).

In Sierra Leone, the government's appeal for the evacuation of two infected doctors was turned down by the WHO on the grounds that it was the responsibility of employers to evacuate their infected health workers (St. Fleur, 2014). Indeed, the only two Africans evacuated from Sierra Leone were a Senegalese expert working for the WHO and a Ugandan doctor employed by an Italian NGO (Friedman, 2014). A prominent case in point involved an attempted intervention by Sierra Leone's president to secure the evacuation of Dr. Olivet Buck, one of the country's eminent doctors for treatment in Germany (Friedman, 2014). Worried about the continuing decimation of his country's small team of only 136 doctors for an estimated population of six million (BBC, 2014), President Ernest Bai Koroma wrote to the WHO, seeking help for Dr. Buck's medical evacuation (St. Fleur, 2014). Lack of funding was often cited as the reason for the non-evacuation of West African health workers, but even President Koroma's assurance that his government was going to pay the $70,000 required for Dr. Buck's evacuation to Germany fell on deaf ears. (St. Fleur, 2014). The WHO firmly declined the president's request and Dr. Buck passed away (Friedman, 2014). For Friedman (2014), this selective evaluation of health workers from developing countries was reminiscent of the 1994 Rwandan Genocide against the Tutsi, which saw Westerners evacuated and local co-workers and friends left behind to face the prospect of death.

The Potential Weaponization of Ebola

From the preceding sections of this article, it appears apparent that globalization has inadvertently made the threat of bioterrorism an increasing reality. Ebola stands out as one of the easier EIDs to be weaponized because of its high fatality rate, lack of a cure, ease of misdiagnosis and propensity to occur in parts of the world that have weak health facilities and inadequate numbers of trained healthcare workers (Maras and Miranda, 2016: 72). As mentioned above, *Zaire ebolavirus* is the most aggressive of the five subspecies and its mortality rates can go up to 90% (Passi et al, 2016: 1). Incidentally, it is samples of the deadly *Zaire ebolavirus* that the Japanese religious-based terrorist group, Aum Shinrikyo, was searching for during its 1992 mission to the DRC. This can be massively devastating if deliberately unleashed on a large civilian population anywhere in the world. Maras and Miranda (2016) opine that human munition is a possible strategy that terrorist groups could use to procure and use the Ebola virus for bioterrorism (p. 75). One way would be to involve deliberate self-infection by individual terrorists, who would then be dispatched to various target destinations of mass infection (p. 75).

Airport screening measures adopted worldwide during the 2014-2015 West African Ebola out-break were largely ineffective. They simply involved taking passenger temperatures, looking out for flu-like symptoms and asking passengers to fill out questionnaires requiring them to indicate if they had had any contact with infected persons or materials (p. 77). Such screening measures are ineffective because of Ebola's lengthy incubation period which is 8-10 days on average but can at times vary between 2-21 days (Passi et al, 2015: 4) before symptoms become manifest. It is also possible that a passenger may not be aware that they had had contact with an infected person, or may simply fail to respond truthfully to the questionnaire (Maras and Miranda, 2016: 76). This lengthy incubation period can allow terrorists to travel to distant parts of the world without any detectable symptoms of infection. Moreover, the primary symptoms of Ebola resemble

those experienced by people with the common cold, flu, or stomach virus (p. 75). An Ebola terrorist would therefore not stand out and could easily melt into the crowd anywhere, unlike, for instance, a smallpox terrorist who would show more visible symptoms such as the characteristic maculopapular rash on the skin (p. 75). It would as such be easy for the Ebola terrorist to reach their destination undetected, and deliberately get into close contact with unsuspecting people, thus further spreading the virus. The result would almost certainly be a rapid massive outbreak among the general population (pp. 75-76).

Such a scenario becomes real when one pauses to consider the large number of Western citizens who are getting radicalized and are leaving their home countries to join ISIS and other terrorist groups. According to an October 2015 UN report, an estimated 30,000 radicalized foreign fighters from over 100 countries had travelled to join ISIS (UN, 2015). These foreign fighters could form a formidable pool of recruits for human munition. In the event of another Ebola outbreak in a fragile African country, they could gain easy access to the outbreak zones as volunteers or aid workers. Their citizenship status gives them unfettered access to their home countries, where they could return either as human munition agents or as evacuated staff. Those who choose the human munition route could spread the virus in public places, while those evacuated could use other methods such as infected vials to transmit Ebola to unsuspecting healthcare providers in their home countries, who would then unknowingly spread the infection to the wider population.

Conclusion

As globalization continues to entrench itself with a particular emphasis on international trade and migration, global health becomes an important aspect of any country's foreign policy. Although health diplomacy will

for a long time remain common practice between developed and developing nations, discriminative practices of international bodies such as the WHO and UN may dent the cooperation between and among states. The right to health, although well-founded in international law, is however unlikely to be pursued with the altruism it demands, for the most part due to the attendant economic and national security priorities of the developed nations. This suggests that global health will continue to hold a subordinate role to the national security and economic priorities of sovereign states. It has been argued that the public health system can only be a truly effective vanguard against bioterrorism if it works closely with the authorities responsible for defence and law enforcement (Garrett, 2001: 88-89). Garrett however avers that this close association between public health and national security might hurt the credibility of public health (88-89). This is essentially what has been manifested in the securitization of global health, which seems self-defeatist.

One outright risk of the securitized approach is the possibility of the weaponisation of EIDs by terrorist groups. The 2014-2015 Ebola crisis in West Africa exposed the emptiness of the concept of global health in practice. The securitization of EIDs is essentially a fire-fighting approach that yields temporary solutions to outbreaks and epidemics as they occur. The adoption of systemic changes for better preparedness on the global level would be more effectual in the long run. The experience of the West African Ebola crisis offers an opportunity for the international community to live up to its human rights obligations in the crucial area of global health. The potential speed with which emerging infections can spread in today's global village costs human lives, affects travel and interrupts trade between interdependent economies (Katz et al, 2011: 504). Even more urgently, it exposes the world to the potential threat of bioterrorism if deadly EIDs such as Ebola fall into the hands of terrorist groups.

The current situation calls for a fresh look at the state of public health globally. Harmon et al (2015) suggest three essential elements for a robust, universal health care system, namely access to essential medicines, the services of a doctor and primary medical care (p. 6). The centre-piece of such an approach would be to tackle inequalities and to strive to raise the health security standards of populations in the developing world. On the EID detection level, Ryan (2008) vouches for closer collaboration between human and veterinary medicine scientists and practitioners, in recognition of the fact that zoonoses such as Ebola are the easiest EIDs for bioterrorists to acquire and use (p. 281). The Ebola crisis, therefore, offers a turning point in terms of the lessons it provided by drawing attention to the tendency of developed nations to either be indifferent towards, or to securitize outbreaks of EIDs when they have already arrived at their doorsteps, as well as the slow response of global actors like the WHO, UN and the World Bank.

Failure to reform the global health system will leave the world susceptible to the possible growth of bioterrorism. It is critical for global actors led by the UN, WHO and developed countries to collectively develop a universal health care system that directly addresses the socioeconomic and contextual factors behind health outbreaks across the world. This is more so in fragile countries where such outbreaks may easily get out of hand and where porous borders could allow easy infiltration by terrorist groups in search of EIDs such as the Ebola virus for purposes of bioterrorism. It is, after all, in the best interest of all nations, both developed and developing, to have a robust global health system. This is because the dividends of universal health care would include enhanced trade, better health and reduced threat of bioterrorism for the entire global community.

REFERENCES

British Broadcasting Corporation (BBC) (2014, September 24). Ebola Drains Already Weak West African Health Systems. Retrieved April 22, 2016, from http://www.bbc.com/news/world-africa-29324595

Bustreo, F. and Doebbler, C. F. (2010). Making Health an Imperative of Foreign Policy: The Value of a Human Rights Approach. *Health and Human Rights* 12(1): 47-59.

CDC. (2016). *2014 Ebola Outbreak in West Africa - Case Counts*. Retrieved April 11, 2016, from Centers for Disease Control and Prevention: http://www.cdc.gov/vhf/ebola/outbreaks/2014-west-africa/case-counts.html

Coggon, J. and Swati, G. (2013). "Introduction: Global Health and International Community" in J. Coggon, G. and Swati, J. (eds.), Global Health and International Community: Ethical, Political and Regulatory Challenges. London: Bloomsbury, pp. 1-14.

Davies, S. E. (2010). What Contribution Can International Relations Make to the Evolving Global Health Agenda? *International Affairs* 86(5): 1167-1190.

Davis, J. (2010). "Understanding Terrorism in Africa" in J. Davis (ed.), Terrorism in Africa: The Evolving Front in the War on Terror. Lanham: Lexington Books, pp. 133-158.

Ewi, M. (2015). What Does the Boko Haram-ISIS Alliance Mean for Terrorism in Africa? Retrieved from Institute for Security Studies (ISS): https://www.issafrica.org/iss-today/what-does-the-boko-haram-isis-alliance-mean-for-terrorism-in-africa

Friedman, E. A. (2014). Medical Evacuations for West African Ebola Patients: The Unspoken Possibility. Retrieved April 20, 2016, from The O'Neill Institute for National and Global Health Law: http://www.oneillinstituteblog.org/medical-evacuations-possibility-unspoken-west-african-ebola-patients/

Garrett, L. (2001). The Nightmare of Bioterrorism. *Foreign Affairs* 80(1): 76-89.

Harmon, S. H., Gostin, L., Grant, L., Gillies, J. and Laurie, G. (2015). Imagining Global Health with Justice: Ebola, Impoverished People and Health Systems. *Medical Law International* 15(1):3-18.

Henderson, D. A. (1998). Bioterrorism as a Public Health Threat. *Emerging Infectious Diseases* 4(3): 488-492.

Katz, R., Kornblet, S., Arnold, G., Lief, E. and Fischer, J. E. (2011). Defining Health Diplomacy: Changing Demands in the Era of Globalization. *The Milbank Quarterly* 89(3): 503-523.

Laverack, G. and Manoncourt, E. (2015). Key Experiences of Community Engagement and Social Mobilization in the Ebola Response. *Global Health Promotion* 1(1): 1-4.

Lia, B. (2005). Globalization and the Future of Terrorism: Patterns and Predictions. Abingdon: Routledge.

Miranda, M. D. and Maras, M.H. (2016). The weaponization of Ebola: A New Risk in the Wake of an Outbreak? *Comparative Strategy* 35(1), 72-79.

Passi, D., Sharma, S., Dutta, S. R., Dudeja, P. and Sharma, V. (2015). Ebola Virus Disease (the killer virus): Another Threat to Humans and Bioterrorism: Brief Review and Recent Updates. *Journal of Clinical and Diagnostic Research* 9(6): 1-8.

Pogge, T. (2001). Priorities of Global Justice in T. Pogge (ed), Global Justice. Oxford: Blackwell, pp. 6-23.

Roache, S., Gostin, L. O., Hougendobler, D. and Friedman, E. (2014). Lessons from the West African Ebola Epidemic: Towards a Legacy of Strong Health Systems. Briefing Paper No. 10, 2 October 2014. O'Neill Institute for National and Global Health Law. Retrieved April 12, 2016, from https://www.law. georgetown.edu/oneillinstitute/resources/documents/ Briefing10Ebola2inTemplate.pdf

Ryan, C. P. (2008). Zoonoses Likely to be Used in Bioterrorism. *Public Health Reports* 123(3): 276-281.

Saéz, A. M., Weiss, S., Nowak, K., Lapeyre, V., Zimmermann, F., Düx, A., . . . Leendertz, F. H. (2014). Investigating the Zoonotic Origin of the West African Ebola Epidemic. *Embo Molecular Medicine* 7(1), 17-23. Retrieved April 24, 2016.

Saxena, A. and Gomes, M. (2016). Ethical Challenges to Responding to the Ebola Epidemic: The World Health Organization Experience. *Clinical Trials* 13(1): 96-100.

Schroeder, D. (2013). The Human Right to Health: Whose Obligation? in D. Schroeder, J. Coggon, and G. Swati

(eds.), Introduction: Global Health and International Community. London: Bloomsbury, pp. 205-217.

St. Fleur, N. (2014, September 29). No Airlifts for Sickened African Ebola Docs . *Scientific American*. Retrieved April 23, 2016, from http://www. scientificamerican.com/article/no-airlifts-for-sickened-african-ebola-docs1/

The Lancet (1998). Right-to-Health Responsibilities of Pharmaceutical Companies. *The Lancet,* 373(9680). Retrieved April 11, 2016.

Tucker, J. B. (1999). Historical Trends Related to Bioterrorism: An Empirical Analysis. *Emerging Infectious Diseases* 5(4): 498–504.

United Nations (1948). The Universal Declaration of Human Rights. Retrieved April 9, 2016, from United Nations: http://www.ohchr.org/EN/UDHR/Documents/ UDHR_Translations/eng.pdf

United Nations (1972). Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. Retrieved from United Nations Office of Disarmament Affairs (UNODA): https://unoda-web. s3-accelerate.amazonaws.com/wp-content/uploads/ assets/media/C4048678A93B6934C1257188004848D0/ file/BWC-text-English.pdf

United Nations (2015). UN Documents on Foreign Terrorist Fighters. Retrieved from Security Council Counter-Terrorism Committee: http://www.un.org/en/ sc/ctc/resources/index.html#ftf_documents

Ventura, D. F. (2016). From Ebola to Zika: International Emergencies and the Securitization of Global Health. *Cad Saude Publica, 32*(4). Retrieved April 23, 2016, from http://www.scielo.br/pdf/csp/v32n4/en_1678-4464-csp-32-04-e00033316.pdf

WHO (2016). Ebola virus disease: Fact sheet N°103. Geneva: World Health Organisation. Retrieved April 13, 2016, from World Health Organisation: http://www. who.int/mediacentre/factsheets/fs103/en/

World Health Organisation (1946). Constitution of World Health Organization. Retrieved April 21, 2016, from World Health Organization: http://www.who.int/ governance/eb/who_constitution_en.pdf

State Fragility and Terrorism in Africa: A Multi-factor Analysis

Gatara Timothy Henry, Ph.D
International Peace Support and Training Centre, Nairobi, Kenya.

Abstract

State fragility is a current topical issue in Africa. It has a multiplicity of determinants. These determinants cut across social, cultural, economic and political issues. The paper examines 12 of these determinants including demographic pressure, human rights, unequal development, human flight, state legitimacy, existence of state elites to run regimes, group grievances, existence of refugees and internally displaced persons, security apparatus available to states, poverty and economic decline, public security, and external intervention.

*These are variables that the Fund for Peace, (2014) Fragility Index has generated and used to categorise countries on the basis of a total fragility score derived from these variables. The study hypothesizes that only 6 of these are most salient for Africa: **group grievance, State legitimacy, unequal development, human rights, existence of state elites and human flight. These are then entered into a regression model against the total fragility score**.*

In the final model, two variables stand out as the most significant: Human Flight and Functioning State Elites. Unequal Development and Group Grievance make it to the final four.

In advancing this model farther, the study hypothesizes that state fragility is a strong determinant of terrorism in Africa. It explores the correlational effects of state fragility and its related variables on terrorism.

Introduction and Theoretical Framework

Over the last decade, the subject of state fragility has taken centre stage in many human development fora internationally. This is also the case for Africa. State fragility in its layman's connotation refers to a situation where states are unable to provide basic services to their populations. This definition implies that this absence of services has concomitants such as abject poverty, a high propensity to conflict and minimal or total absence of territorial control.

High levels of state fragility pose a serious problem to human development, since they ultimately lead to state collapse, impoverishment and suffering of humans.

Explaining the concept of state fragility is elusive, mainly due to its multivariate nature. It's likely causation is rooted in social, economic, political, historical, demographic and cultural factors.

It is the contention of this paper that a few key social variables, related to governance, management of state affairs and human conditions determine state fragility and if addressed, they could stabilize African countries to the extent necessary for sustainable human development.

The study focuses on six key likely determinants of state fragility; *the legitimacy of states, group grievances in states, human right violations, existence of unequal development, existence of competent elites to run the country*

and *human flight or displacement due to state fragility.*

This thinking leads to a recursive structural equation model showing the relationship between these variables as shown in figure 1..

Figure 1: Structural Equation Model Fragility.
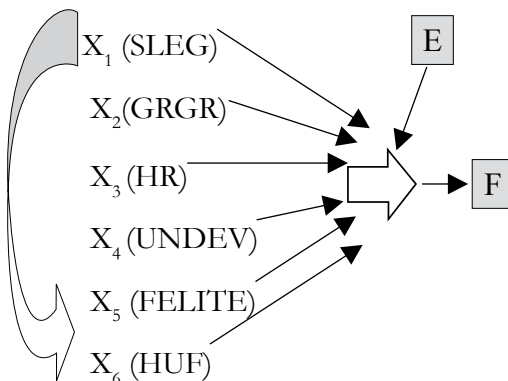
This model has context in theories that have been advanced by among others, Paul Collier (2010)[13]. The perspective by Collier posits that civil wars occur when it is both financially and militarily possible. Collier downplays social grievances and emphasizes inequalities and building of strong economies. William Zertman (2007) sees the sequencing of need, creed and greed as key forces behind hostilities inside states. He argues for state intervention before greed finds its way into state systems. Frances Stewart (2007), highlights horizontal inequalities between groups as central in generating negative conflict and sees policies that reduce the inequalities as vital in preventing such conflicts. The World Development Report (2011) recognizes many of the variables used as possible factors behind fragility.

Literature

Scholarly works that have looked at the subject of state fragility include those of Andrea Guerzoni, (2013) who views a myriad of variables ranging from economic, institutional,

historical, cultural and demographic. The author also considers ethnic identity as a key factor. The study finds no significant correlation between colonial history and state fragility in Africa. This of course depends on the kind of variables considered to constitute 'colonial history' in the study. Some studies on fragility that consider economic factors find no correlation between income per capita and fragility (Barliamonte and Lutz, 2010). There are studies however that finds that state fragility itself impacts human or national development, (Fosu, 2009) Other studies have looked at the effect of international aid to African countries and found that it impacts on development. However, these studies do not go far enough to show whether development emanating from such aid contributes to either stability or fragility of states in Africa (Burnside & Dollar, 2000). This paper challenges the findings by other scholars that report positive effect of foreign aid on state fragility (Stansen & Tap, 2001). There are also studies that indicate that foreign aid in Africa can prolong state fragility (Chauvet and Linker, 2007).

Institutional variables have been shown to be instrumental in the determination of state fragility (Moreno and Torres, 2005). Indeed, one of the more systematic studies on fragility (Graziella Bertocchi & Andrea Guerzoni, 2010), report a strong influence of institutional variables, followed by income per capita on state fragility. In the study, colonial history is found to be marginally important in determining state fragility. Conversely, the European Development Report (2009) finds a relationship between state fragility and colonial history. The study by Graziella and Bertocchi does not however consider factors such as foreign investment in Africa and capital flight from the continent. The study utilizes data gathered by the International Development Agency (IDA)[9] that focus on economic development factors, structural policies, social inclusion and equity, public sector and institutional management.

Data

Data for this paper come from the Fund for Peace (2013). In the Fund's compilation of the '*fragile state index*', they include 12 key variables that they consider salient in determining state fragility, not just in Africa but globally. These include: Demographic pressure, Refugees and Internally Displaced Persons, Group grievance, Human Flight, Uneven economic development, Economic Decline, State Legitimacy, Public Services, Human Rights, Security Apparatus, Funtionalised Elites and External Intervention. The State fragility indicator is obtained as a total score of these variables by which all the world countries are ranked. In its calculation, this paper uses this score as the dependent variable. In the analysis, these variables are re-coded as: TOTAL [Total Score], DEMPRESS [Demographic Pressure] , REFDIP [Refugees and Internally Displaced Persons], GRGR [Group Grievance], HUF [Human Flight], UNDEV [Uneven Development], PECD [Economic Decline], SLEG [State Legitimacy], PS [Public Service], HR [Human Rights], SECAP [Security Apparatus], FELITE [Functionalised Elites], EXTINTER [External Intervention].

The study from which this paper is derived aimed at finding out which group of variables has the most influence on state fragility as measured by the total fragility score. It explores data for 53 (N=53) African countries.

The general hypothesis is that high levels of demographic pressure, numbers of refugees and internally displaced persons, extreme group grievances, high numbers of human flight, high levels of inequality, high economic decline, existence of illegitimate states, poor public service, violations of human rights, poor security apparatus, non existence of functionalized elites to run the state, and frequent external intervention, together contribute to high levels of state fragility. It is further hypothesized that in states where these factors are minimal, chances

for fragility are minimal. Even without testing all these variables for their importance in determining state fragility, experience thus far, suggests that a few of them have more significance than others. These include state legitimacy, existence of functional elites and human rights. To these, other variables including group grievance, unequal development and human flight are added to the model.

Data Analysis.

In the analysis, data from the State Fragility Index is entered in a multiple regression model containing the six variables as independent; it is then regressed against the *total fragility* score. This model is of the order:

$$Y = \alpha_{(Constant)} + X_1\beta_1 + X_2\beta_2 + X_3\beta_3 + X_4\beta_4 + X_5\beta_5 + X_6\beta_6 .. \xi$$

Where:

Y = TOTAL

X_1 = SLEG

X_2 = FELITE

X_3 = HR

X_4 = GRGR

X_5 = UNDEV

X_6 = HUF and E the error of prediction.

The influence of a given variable on the dependent variable is considered significant at .05 p significance level.

Findings and discussions.

Table 1 shows the outcome of the regression model when all the six variables are in the model. The regression outcome shows that these six variables taken together explain more than 90% (R^2 = 0.914) of the variation in state fragility implying that these variables can predict state fragility when each variable's contribution is considered while the other 5 are controlled. The most significant of these variables is *Human Flight* with a P Value of 9.27e-06. This is an expected result since human

flight, in reality, an indicator of everything that could go wrong in an unstable state. It is usually preceded by breakout of hostilities, violence and forced displacement of human populations. The least significant of these variables is *State Legitimacy* with a P value of 0.94. This is a telling outcome that indicates that states that are not completely legitimate do not necessarily have to be fragile. All the other variables are significant predictors of state fragility at this stage. The *State Legitimacy* variable is hence weaned from the next model. The P value of the variable *Human Flight* is 9.3 implying that this variable may have effect on state fragility even in a random sample. It is possible for human flight to exist in a situation where state fragility is absent. This is because human flight could be due to other factors, like technology-triggered migration that are not necessarily factors related to state fragility. *Human flight* itself is a composite variable and could show high multi-collinearity with the other variables including the dependent variable and thus, its explanatory effect may not be real. For this reason, it is hence weaned from the next model.

Table 1: Regression Coefficients of the total model

Residuals:

Min	1Q	Median	3Q	Max
-11.0862	-2.4431	0.0805	2.1995	6.7230

Coefficients:

	Estimate	Std. Error	t value	Pr(>|t|)
(Intercept)	1.36669	5.32066	0.257	0.798381
GRGR	1.42779	0.49601	2.879	0.005949
HUF	2.80126	0.56488	4.959	9.27e-06
UNDEV	2.97097	0.74687	3.978	0.000234
SLEG	0.07018	1.08722	0.065	0.948799
HR	1.98572	0.89031	2.230	0.030433
FELITE	2.71445	0.76386	3.554	0.000865

Residual standard error: 3.837 on 48 degrees of freedom
Multiple R-squared: 0.9144, Adjusted R-squared: 0.9037
F-statistic: 85.41 on 6 and 48 DF, p-value: < 2.2e-16

The 5-variable model turns out highly significant coefficients. It shows how well the five variables, *Group Grievance, Human Flight, Unequal Development, Human Rights and State Elites* complement each other to strongly predict state fragility. Still in this model, not all the variables are not equally strong predictors of fragility. Two of these variables, *Human Rights (p =0.00139) and Group Grievance, (p=0.00159*) are the weakest predictors of fragility. Notably, in scenarios where human right abuse is rampant, group grievances are likely to be rife. Despite these two variables being equally significant, the Human Rights variable is first weaned from the model.

Without the Human Rights variable in the model, *Group Grievance (p = 9.03)e-05* turns out strongly as a predictor variable for state fragility. This shows how strongly human rights status in any country influences group grievances. Countries with accepted human rights records can be expected to portray limited group grievances

Table 2: Regression coefficients: 5-variable model

Residuals:

Min	1Q	Median	3Q	Max
-11.0756	-2.4484	0.0435	2.2032	6.7380

Coefficients:

	Estimate	Std. Error	t value	Pr(>|t|)
(Intercept)	1.3594	5.2651	0.258	0.79734
GRGR	1.4112	0.4203	3.358	0.00153 **
HUF	2.7969	0.5552	5.038	6.79e-06 ***
UNDEV	2.9882	0.6903	4.329	7.37e-05 ***
HR	2.0279	0.5983	3.389	0.00139 **
FELITE	2.7463	0.5772	4.758	1.77e-05 ***

Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

Residual standard error: 3.798 on 49 degrees of freedom
Multiple R-squared: 0.9143, Adjusted R-squared: 0.9056
F-statistic: 104.6 on 5 and 49 DF, p-value: < 2.2e-16

Table 3: Regression Coefficients: 4-variable model

Residuals:

Min	1Q	Median	3Q	Max
-8.4021	-3.4017	0.3024	3.1962	8.7055

Coefficients:

	Estimate	Std. Error	t value	Pr(>|t|)	
(Intercept)	4.5872	5.6956	0.805	0.424399	
GRGR	1.8661	0.4381	4.259	9.03e-05	***
HUF	2.7376	0.6103	4.486	4.27e-05	***
UNDEV	2.9664	0.7592	3.907	0.000281	***
FELITE	3.9337	0.5046	7.795	3.45e-10	***

Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

Residual standard error: 4.178 on 50 degrees of freedom
Multiple R-squared: 0.8943,   Adjusted R-squared: 0.8858
F-statistic: 105.7 on 4 and 50 DF, p-value: < 2.2e-16

Human Rights and existence of state elites

In many African countries, group grievance is usually about unequal development and, it is a variable that would work together with unequal development to explain fragility. In the absence of the unequal development variable, group grievance still remains strong. The lowest p value in the model is shown by the *Human Rights* variable. It is quite insignificant with a p value that is well beyond the 5% significance level. This variable is therefore dropped from the model.

Table 4: Regression Coefficients: 3-variable model

Residuals:

Min	1Q	Median	3Q	Max
-11.6508	-3.3298	0.4698	3.0702	8.1487

Coefficients:

	Estimate	Std. Error	t value	Pr(>|t|)	
(Intercept)	19.5869	4.7598	4.115	0.000141	***
GRGR	2.0198	0.4936	4.092	0.000153	***
HUF	3.5033	0.6539	5.358	2.04e-06	***
FELITE	4.1144	0.5685	7.238	2.29e-09	***

Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1
Residual standard error: 4.726 on 51 degrees of freedom
Multiple R-squared: 0.862, Adjusted R-squared: 0.8539
F-statistic: 106.2 on 3 and 51 DF, p-value: < 2.2e-16

The removal of the Human Rights variable from the model still leaves a robust model that can still predict significant state fragility. The Human Rights factor entails issues of violations of basic human rights and violence, and it confounds with Group Grievance in explaining state fragility. For a long period in the political history of Africa, the Human Rights factor could be applied on its own to explain state fragility, especially in the period that followed independence in countries such as Ghana, Nigeria, Zambia, and others where the rulers tended to be despotic with little regard to human rights.

In the 4-variable model (Table 3), *Unequal Development* though significant is the weakest predictor with a *p value of 0.000281*. *Unequal development* has shown to have a staying power of its own, and although it may not directly lead to state fragility, it is a critical long-term factor that is capable of triggering civil strife and revolutions if left un-attended.

Due to its low *p* value and its high prediction error, this variable is subsequently dropped from the model.

The removal of Unequal development variable from the model has literally no effect on the explanatory strength of the model. The predicted R^2 still remains above 80%. These four variables are strong predictors of fragility and show an expected strong correlation with fragility. This is shown in *Figure 1*.

Figure 1: Correlation Plots
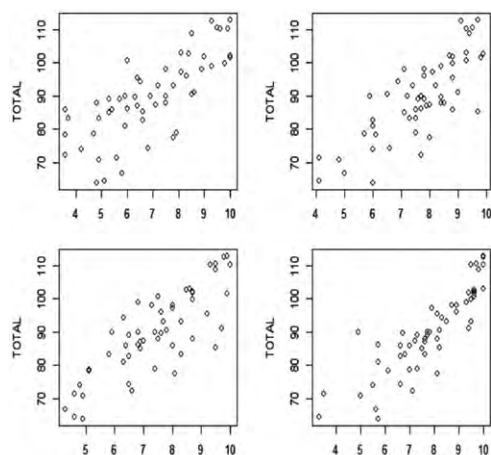
The three factors that remain, *Group Grievance, Existence of State Elites and Human Flight* work well together in explaining about 86% of the variation in *state fragility*. This can be explained by the fact that where a state has a weak power elite in authority, group grievances and unstable human populations are likely to be significant.

From the analysis, one may be tempted to pose the questions: of these three factors which is the least important and which two would hang together in predicting state fragility in Africa? Can the model still hold with two variables?

If it can be argued that when a state has sound leadership, as portrayed by a strong elite in authority, it is likely to be effective in dealing with group grievances. When group grievances are minimal, conflict is less and the state tends to be less fragile. This condition also fosters population stability and human flight that arises from instability is insignificant. Any of the three remaining factors are strong predictors of state fragility and the removal of one of them still leaves a robust predictive model. The removal of Group Grievance leaves a 2-variable predictive model.

Table 5: Regression Coefficients: 2-variable model

Residuals:

Min	1Q	Median	3Q	Max
-9.9755	-3.5084	-0.1166	3.0675	12.4735

Coefficients:

	Estimate	Std. Error	t value	Pr(>|t|)	
(Intercept)	21.2918	5.4119	3.934	0.000249	***
HUF	3.4324	0.7461	4.601	2.74e-05	***
FELITE	5.7617	0.4581	12.578	< 2e-16	***

Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

Residual standard error: 5.394 on 52 degrees of freedom
Multiple R-squared: 0.8167, Adjusted R-squared: 0.8096
F-statistic: 115.8 on 2 and 52 DF, p-value: < 2.2e-16

The model outcomes show that *Human Flight* and *State Elites* remain highly significant at levels below 5%, explaining 82% of the variation in state fragility. The model remains sound enough to explain more than 21% of the variation in state fragility even when these two variables are having Zero effect on state fragility. It is possible that these two factors encompass all the other factors in preventing state fragility hence their explanatory power.

Using these models, it is possible to predict state fragility of any country on the basis of any of the models. Fragility scores range from 18 for low fragility states such as Finland, Sweden, Iceland and Norway, to over 100 for countries such as South Sudan, Somalia, Chad, DRC and the CAR. If the scores of the low fragility countries on *Human Flight* and *State Elites* are taken to predict fragility in Africa using the 2-variable model, Africa would have a fragility level of 35, which would be at par with countries such as Japan, United States, Korea, Singapore and Uruguay. The best-placed African country with the least fragility tendencies is Mauritius with a score of 46 and Botswana with 64.

Kenya has a fragility level of 99. With a *Human Flight* score of 7.8 and *State Elites* score of 9.3, the model predicts the country's fragility score to be 101, which approximates the 99 it is given globally. With the *Group Grievance* and *Unequal Development* in the model, Kenya remains at 99, implying that these are the four priority factors the country needs to address. In other words, Kenya needs efficient leadership elite, tackle group grievances*, address Unequal Development and embrace corruption free governance.*

This prediction is an indicator that even with the best scores for the above factors in the world, Africa would have a great deal to do in all the other factors, especially unequal development and group grievances to achieve the low fragility levels of the leading states in the world.

Table 6: Regression GTI Model.

Residuals:

Min	1Q	Median	3Q	Max
-3.2240	-1.2428	-0.2321	1.2041	3.8290

Coefficients:

	Estimate	Std. Error	tvalue	Pr(>|t|)	
(Intercept)	-2.45784	2.39065	-1.028	0.309	
GRGR	1.16818	0.24177	4.832	1.54e-05	***
UNDEV	-0.31157	0.34163	-0.912	0.367	
SLEG	-0.34232	0.51828	-0.660	0.512	
HR	0.30928	0.41941	0.737	0.465	
FELITE	-0.01808	0.35752	-0.051	0.960	

Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

Model Analysis with Terrorism Variable.

The model predicting terrorism using the same variables as fragility shows that group grievance is the strongest predictor of terrorism. Legitimacy of the state also a strong predictor.

Table 7: Fragility and terrorism in a model.

Residuals:

Min	1Q	Median	3Q	Max
-3.1817	-1.2001	-0.2044	1.2246	3.8492

Coefficients:

	Estimate	Std. Error	t value	Pr(>|t|)	
(Intercept)	-2.33299	2.47220	-0.944	0.350	
GRGR	1.18426	0.25351	4.671	2.72e-05	***
UNDEV	-0.25513	0.41919	-0.609	0.546	
SLEG	-0.35021	0.52473	-0.667	0.508	
HR	0.33924	0.44219	0.767	0.447	
FELITE	0.02822	0.41057	0.069	0.946	
TOTAL	-0.01325	0.05585	-0.237	0.814	

Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1
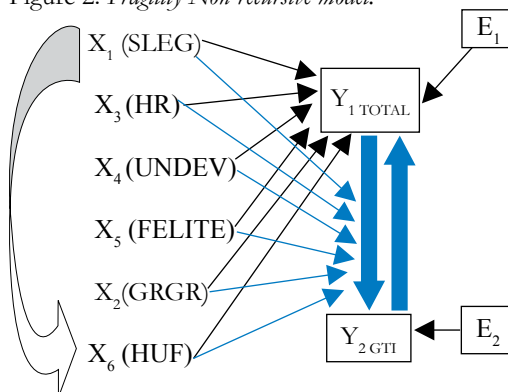
Residual standard error: 1.823 on 45 degrees of freedom
(1 observation deleted due to missingness)
Multiple R-squared: 0.6117,   Adjusted R-squared: 0.5599
F-statistic: 11.81 on 6 and 45 DF, p-value: 6.503e-08

In a model where a non-recursive situation between fragility and terrorism exists, fragility

Figure 2: *Fragility Non-recursive model.*

and terrorism together with the other variables still remain strong explanatory variables for each other. There seems to be little difference between terrorism and state fragility, since the existence of one enhances the existence of the other. The model predicting state fragility that contains terrorism is stronger (R square .848) than the model predicting terrorism that contains state fragility, (R square .559). The weak negative relationship between fragility implies that even states that may experience do not necessarily have to fragile.

Discussions and Conclusions

In perspective, all the fragility variables are critical in predicting state fragility in Africa. However, of these variables, there are those that the continent needs to prioritize as a prerequisite basis for the others.

Demographic pressure is a silent force that indirectly bears on state fragility. Rapid population growth in many African countries will always put pressure on the available resources, and enhance competition for them. Rapid population growth also cancels out economic gains and the states appear like they are not making any progress to improve making no improvements on the conditions of life for its

citizens. Africa has an abundance of resources and can, undoubtedly, cope with much larger populations. However, the resources need to be managed in a manner that enables the states to cater for these large populations. When this does not happen, injustices easily creep into state systems. The population competes and fights over scarce resources. The net effect is that the states fall into fragility.

The population pressure factor is compounded with *unequal development* and *group grievances*. Where governments are perceived as illegitimate the leadership elites fail to control rampant corruption, the state slides into anarchy and instability. Even without addressing a whole range of issues that make states fragile.

One can ensure legitimacy if they deal with *group grievances*, fight *unequal development* and where the *state elites* embrace humane and democratic governance.

It is vital that states deal with terrorism and fragility with equal measure of effort. States that are fragile but without significant terrorism, need to view terrorism as a potential hazard. Fragility is an indicator of impending terrorism. States with terrorism need not only deal with the potential, but also the reality of terrorism. Terrorism is both a reality and doctrine. Reality has staying power because of doctrine. Impacting ideology and doctrine, will eventually dent the reality of terrorism.

References.

Graziella Bertocchi and Andrea Guerzoni, 2010: Growth, History, or Institutions? What Explains State Fragility in Sub-Saharan Africa, International Labour Institute, Bonn Geramny.

Baliamoune-Lutz, M., 2009. Institutions, Trade, and Social Cohesion in Fragile States: Implications for Policy Conditionality and Aid Allocation. *Journal of Policy Modeling* 31, 877-890.

Fosu, A. K., 2009. Understanding the African Growth Record: The Importance of Policy Syndromes and Governance. UNU-WIDER Discussion Paper No. 2009/02.

Burnside, C., Dollar, D., 2000. Aid, Policies and Growth. *American Economic Review* 90, 847-868.

Hansen, H., Tarp, F., 2001. Aid and Growth Regressions. *Journal of Development Economics* 64, 547–570.

Lisa Chauvet, Paul Collier, and Anke Hoeffler, 2007: "The Cost of Failing States and the Limits to Sovereignty", UNU-WIDER research paper no. 2007-30, Helsinki, Finland.

Moreno and Torres, 2005:

Graziella Bertocchi and Andrea Guerzoni, 2010: (*op cit).*

European Report on Development (ERD), 2009.

Overcoming Fragility in Africa. Robert Schuman Centre for Advanced Studies. European University Institute. San Domenico di Fiesole.

David Carment, Stewart Prest, and Yiagadeesen Samy, *Security, Development and the Fragile State: Bridging the Gap between Theory and Policy* (Abingdon, UK: Routledge, 2009).

The Fund for Peace 2014: *State Fragility Index, Washington D.C.*

Gatara Timothy Henry, 2014: *Statistical Techniques: Olive Publishing and Marketing Company, Nairobi.*

Paul Collier, 2010: CRISE Network, Oxford Department of International Development.

William Zertman & Arnim Lnger 2007: Horizontal Inequality; Explaining Persistence and Change, 2007

Stewart, F., and Brown G., 2009, 'Fragile States', Centre for Research on Inequality, Human Security and Ethnicity (CRISE), Oxford

World Bank, 2011: The World Development Report; www.worldbank.org/world report 2011.

Institute for Economics and Peace: Global Terrorism Index Report, 2015, Washington DC.

The International Peace Support Training Centre

P.O. Box 24232 Westwood Park

Karen - 00502, Kenya

Phone: 00254 (0) 20 3883157/8

Fax: 00254 (0) 3883159

Email: info@ipstc.org